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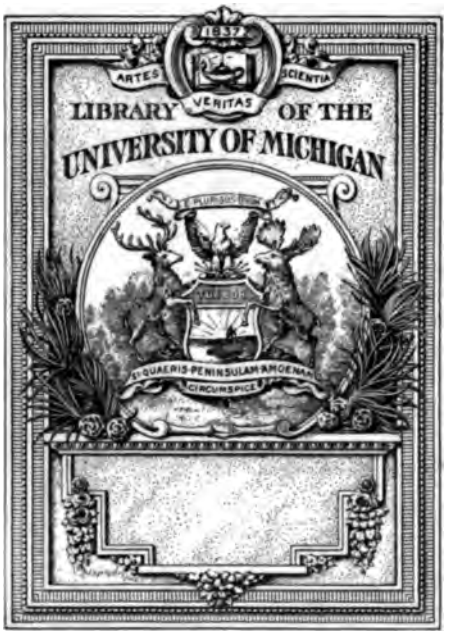

THE GIFT OF
U.S. Supt. Pub. Doc.

5242

60TH CONGRESS : : 1ST SESSION

DECEMBER 2, 1907-MAY 30, 1908

SENATE DOCUMENTS

IN 36 VOLUMES

VOL. 9

WASHINGTON : : GOVERNMENT PRINTING OFFICE : : 1908

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60TH CONGRESS, 1st Session. | SENATE. | DOCUMENT No. 366.

DATA RELATIVE TO PROPOSED EXTENSION OF PARCEL POST.

Mr. BURNHAM presented the following

DATA RELATIVE TO THE PROPOSED EXTENSION OF THE PARCEL POST.

MARCH 6, 1908.—Referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., March 4, 1908.

MY DEAR SENATOR: It affords me great pleasure, in compliance with your request, to place at your disposal the data which are available relative to the proposed extension of the parcel post.

It does not appear to be generally appreciated that a comprehensive system of parcel post is already in satisfactory operation in most foreign countries. Exhibit No. 1 gives detailed information on this subject. I show here the limit of weight which has been fixed in a number of instances:

	Pounds.		Pounds.
Great Britain	11	New Zealand	11
Germany	110	Austria	110
France	22	Belgium	132
Italy	11	The Netherlands	11
Chile	11	Cuba	11

The rates in the countries mentioned are much lower than those shown in Exhibit No. 2, which have been recommended for the general parcel post in the United States.

The present rate on the general parcel post is 16 cents a pound for people in our own country, the limit of weight being 4 pounds, while the rate from the United States to 29 foreign countries is 12 cents a pound and the limit of weight to 24 of these countries is 11 pounds. In other words, our own people must pay 4 cents a pound more for the privilege of dispatching packages to each other than when destined to residents of a foreign country. I have therefore urged a rate of 12 cents a pound for packages forwarded through the mails to post-offices in the United States and its possessions, subject to the same regulations as exist at the present time, with the exception of increasing the weight limit to 11 pounds. The service can be rendered at a cost well within the rates recommended.

According to the Report of the Record of Weight of Second-class Mail Matter, transmitted by the Post-Office Department to the House of Representatives under date of February 1, 1907, the average haul of all second-class matter was 540 miles.

Of the total receipts of the Post-Office Department 69 per cent are expended for labor and supplies, and 7 per cent for conveyance charges other than those paid the railroads for transporting the mail. A general rate for parcel post of 12 cents a pound would produce a revenue of $240 a ton. Even on the basis of a 540-mile average haul, I find the debit and credit sides of 1 ton of parcel post to be as follows:

By postage		$240.00
To railroad transportation, 540 miles, at 5½ cents	$29.70	
Other transportation charges	16.80	
Labor and supplies	165.60	
Total cost		212.10
Profit		27.90

A local parcel post confined to rural delivery routes is also advocated at the rates given in Exhibit No. 3. The Department favors the establishment of this special service because of its ability to render it with great advantage to the farmer, the country merchant, and other patrons of the routes, as the necessary machinery (over 38,000 routes now regularly covered by rural carriers) is in operation. There are some 15,000,000 people living on these routes, which shows the vast possibilities of the rural service. It has been estimated that if but three packages of the maximum weight were handled each trip on the rural routes now established the resulting revenue, even at the low rates given, would more than wipe out the postal deficit. The increased cancellations would automatically advance the salaries of postmasters of the fourth class, and the remaining revenue, which would be clear gain, would be of great assistance in making the rural service self-sustaining. The rural service will, in all probability, cost the Government this year $34,000,000, an increase of $10,000,000 over last year.

The history and advantages of the rural delivery should be understood by our people. There is a feeling in many quarters that it is an extravagance and an unnecessary drain upon the postal revenues. The first rural route was established in the latter part of 1896, $14,840 being expended for rural delivery during that fiscal year. At that time the postal deficit was $11,411,779. During the fiscal year ended June 30, 1907, the expenditures for rural delivery aggregated $26,671,699, while the postal deficit showed a decrease, as compared with 1897, of $4,800,000, the deficit amounting to $6,653,282. This would seem to show that while the expense incurred for maintaining rural delivery is great, yet the rural delivery has been instrumental in increasing the general postal receipts. However, its benefits to our people can not be measured in dollars and cents.

That a local parcel post would be of material advantage to the retail merchant in competition with mail-order houses is seen at once when it is pointed out that the latter, at the proposed general parcel post rate of 12 cents a pound, would be obliged to pay $1.32 for

sending an 11-pound package to a rural route patron, a difference in favor of the local storekeeper of about 10 cents a pound, or $1.07 on an 11-pound package.

Letters and petitions for the extension of the parcel post are being received from all sections of the country. Many commercial bodies formerly opposed to any action of this kind are on record as being heartily in favor of it.

On the other hand, objections have been raised to the measures the Department is advocating. Although no sound argument has been advanced in opposition, the contentions which have been made are not without interest. I mention the more important of them, at the same time giving the replies which they have elicited:

It has been stated that the Department is not equipped to deliver 11-pound parcels received in the general mails. The present postal regulations provide that where a package is of undue size or weight a formal notice shall be sent the addressee requesting him to call for it. This practice would continue were the weight limit increased to 11 pounds, in the case of offices having free delivery. Nor would it work a hardship, for under the present limit of 4 pounds the average weight of parcels sent through the mails is but one-third of a pound. Increasing the weight limit would not have nearly as great an effect on the average weight of parcels mailed as seems to be commonly supposed. Where packages were addressed to persons living on rural routes they would, of course, be delivered to the boxes of the patrons by rural carriers, who would not thereby be inconvenienced.

The claim that the special local rate recommended for the parcel post on rural routes would eventually be extended to include the entire postal service has been given considerable publicity. The impossibility of this becomes apparent when attention is directed to the cost of railroad transportation, which has no part in the former service. About $45,000,000 were paid last year for mail transportation and $6,000,000 for postal cars.

Others have said that large mail-order houses would, under the proposed law, utilize the special parcel post or rural routes through agents to the great disadvantage of the country merchant, first assembling their orders and dispatching them by express or freight to suitable distributing points. The Department has recommended provisions which will prevent any such use of the routes. It should be remembered, too, that even in the absence of a specific prohibition of this nature, any systematic attempt upon the part of a mail-order house to thus distribute its wares would necessitate the employment of many thousands of local representatives. The catalogues of these concerns indicate in no uncertain way that they attribute their success, in large measure, to their low selling expense, and that the absence of any sort of agents is the principal feature of their argument in accounting for the supposedly low prices of their goods.

The cry of "class legislation" has been raised. There is, of course, no discrimination involved, for all who can be reached by rural carriers will be accommodated. It would be as reasonable to decry the laws which permit the delivery of mail to patrons living on rural routes, while persons differently situated are obliged to make a trip to a near-by post-office to obtain their letters.

Those who claim that an increase in the weight limit would work an injury to country merchants appear to have the impression that mail-order houses now deliver their goods extensively through the postal service, and that this practice would largely increase if the recommendations which have been made become law. Upon a moment's reflection it will be perceived that the present rate of 16 cents a pound ($16 per hundredweight), as well as the proposed rate of 12 cents a pound ($12 per hundredweight), are alike prohibitive on practically all lines of merchandise. Mail-order houses make their shipments usually by freight or express and would continue to do so.

Antagonism to the proposed measures, when analyzed and found not to be the result of selfish motives, appears to be based upon inaccurate or insufficient information. In illustration, I desire to invite attention to a communication of the Richmond Commercial Club, of Richmond, Ind., which appeared in the Congressional Record of January 4, 1908. In this letter the statement was made that a certain mail-order house would save $40,000 a year on the mailing of catalogues alone. Catalogues are rated as third-class matter, whereas the Department's recommendations with respect to parcel post relate to fourth-class matter only. Catalogues are now mailable at 1 cent for 2 ounces, or 8 cents a pound, 4 cents a pound less than the rate proposed for the general parcel post. The mail- order house referred to, therefore, would gain nothing under the proposed law in the mailing of its catalogues.

With the adoption of new conveniences of life by urban residents, and the ever-increasing attractions of the city, especially potent in their influence upon the younger generation, the importance of affording farmers and ruralites generally every legitimate advantage becomes more and more apparent. The free rural delivery has improved materially and intellectually the life of great numbers of these people. Is it too much to ask that the Department shall make a further use of this important system; a use which, while adding appreciably to the postal revenues, will directly and vitally benefit every man, woman, and child within reach of a rural route? The countryman would have the necessities of life delivered at his gate at an average cost of 2 cents a pound, thereby facilitating and increasing consumption. This would mean augmentation of the trade of thousands of country merchants. The commercial traveler should appreciate the advantages of this system; it would increase his orders because the country merchant buys from the jobber or the wholesaler. Every component part of our commercial system would feel the effects of an increased prosperity.

It would inevitably tend toward the improvement of the roads. Better roads and improved postal facilities in the rural districts would result in increased values of farm lands. The rural service as now organized has accomplished something in this direction: its enlargement will add to the good attained.

Believe me, faithfully yours,

G. v. L. MEYER.

Hon. HENRY E. BURNHAM,
United States Senate, Washington.

EXHIBIT 1.

PARCEL POST RATES IN THE DOMESTIC SERVICE OF THE COUNTRIES NAMED.

Great Britain.—Postage rates for the first pound, 3 pence (6 cents), and for each additional pound, 1 penny (2 cents); maximum weight, 11 pounds; greatest length, 3 feet 6 inches; greatest length and girth combined, 6 feet.

New Zealand and the States Composing the Commonwealth for Australia.—Limits of weight and size, same as in Great Britain. Postage rates, 6 pence (12 cents) for the first pound, and 3 pence (6 cents) for each additional pound.

Germany.—Greatest weight, 50 kilograms (about 110 pounds); no limit of size. Postage rates: For all parcels conveyed not more than 10 geographic miles, 25 pfennig (6 cents), and 50 pfennig (13 cents) for greater distance; if a parcel weighs more than 5 kilograms (11 pounds av.), it is charged for each additional kilogram (2 pounds) carried 10 miles, 5 pfennig (1 cent); 20 miles, 10 pfennig (3 cents); 50 miles, 20 pfennig (5 cents); 100 miles, 30 pfennig (8 cents); 150 miles, 40 pfennig (10 cents); and more than 150 miles, 50 pfennig (13 cents). Unwieldy parcels are charged in addition 50 per cent of the above rates.

Austria.—Greatest weight, 50 kilograms (110 pounds); except that parcels containing gold or silver coin may weigh up to 65 kilograms (143 pounds). Postage rates: Parcels up to 5 kilograms (11 pounds) in weight are charged 30 heller (6 cents) for the first 10 miles, and 60 heller (12 cents) for greater distances. A parcel weighing more than 5 kilograms (11 pounds) is charged for each kilogram (2 pounds), in addition to the above rates, for the first 10 miles, 6 heller (1 cent); 20 miles, 12 heller (2 cents); 50 miles, 24 heller (5 cents); 100 miles, 36 heller (7 cents); 150 miles, 48 heller (10 cents), and more than 150 miles, 60 heller (12 cents).

France.—Greatest weight 10 kilograms (about 22 pounds); no limit of size. Postage rates: Up to 3 kilograms (7 pounds), 60 centimes (12 cents) delivered at the railway station, and 85 centimes (17 cents) delivered at a residence; from 3 to 5 kilograms (7 to 11 pounds), 80 centimes (16 cents) at a station, and 1 franc 5 centimes (21 cents) at residence; from 5 to 10 kilograms (11 to 22 pounds), 1 franc 25 centimes (25 cents) at a station, and 1 franc 50 centimes (30 cents) at a residence.

Belgium.—Greatest weight 60 kilograms (about 132 pounds); no limit of size, but unwieldy parcels are charged 50 per cent in addition to the following rates for any distance: Parcels up to 5 kilograms (11 pounds), 50 centimes (10 cents)—or if by express trains, 80 centimes (16 cents); up to 10 kilograms (22 pounds), 60 centimes (12 cents)—or if by express trains, 1 franc (20 cents); for each additional 10 kilograms (22 pounds), 10 centimes (2 cents)—or if sent by express trains, 50 centimes (10 cents) additional. Fee for delivering at residences, 30 centimes (6 cents).

Italy.—Greatest weight, 5 kilograms (11 pounds). For ordinary parcels, greatest size in any direction, 60 centimeters (2 feet), except rolls which may measure 1 meter (40 inches—3 feet 4 inches) in length by 20 centimeters (8 inches) in thickness. Postage rates for a parcel not exceeding 3 kilograms (7 pounds), 60 centimes (12 cents); and 1 franc (20 cents) for a parcel exceeding that weight. A parcel which exceeds 60 centimeters (2 feet) in any direction, but does not exceed 1½ meters (5 feet), is admitted to the mails as an "unwieldy" parcel and is charged, in addition to the above rates, 30 centimes (6 cents) if it does not weigh more than 3 kilograms (7 pounds), and 50 centimes (10 cents) if it exceeds that weight.

The Netherlands.—Greatest weight, 5 kilograms (11 pounds); greatest size, 25 cubic decimeters (1,525 cubic inches), or 1 meter (3 feet 4 inches) in any direction. Postage rates: 15 (6) cents (Dutch) up to 1 kilogram (2 pounds); 20 (8) cents from 1 to 3 kilograms (2 to 7 pounds); 25 cents (10) from 3 to 5 kilograms (7 to 11 pounds).

Chile.—Greatest weight, 5 kilograms (11 pounds); must not measure more than 60 centimeters (2 feet) in any direction. Postage rates: 30 centavos (10 cents) if a parcel does not weigh more than 3 kilograms (7 pounds); 50 centavos (17 cents) if it weighs more.

Cuba.—Greatest weight, 11 pounds; greatest size, 3 feet 6 inches in length by 2 feet 6 inches in width. Postage rates: 10 centavos (10 cents) a pound up to 5 pounds; and 6 centavos (6 cents) for each additional pound.

EXHIBIT 2.

Rates recommended by the Postmaster-General in his annual report (year ended June 30, 1907) for packages forwarded through the mails to post-offices in the United States and its possessions, subject to the regulations which exist at the present time, with the exception of increasing the weight limit to 11 pounds.

	Cents.
One ounce	1
Over 1 ounce and not exceeding 3 ounces	2
Over 3 ounces and not exceeding 4 ounces	3
Over 4 ounces and not exceeding 5 ounces	4
Over 5 ounces and not exceeding 6 ounces	5
Over 6 ounces and not exceeding 8 ounces	6
Over 8 ounces and not exceeding 12 ounces	9
Over 12 ounces and not exceeding 16 ounces	12

EXHIBIT 3.

Rates recommended by the Postmaster-General in his annual report (fiscal year ended June 30, 1907) for packages covered by the special local parcel post on rural delivery routes.

	Cents.
For the first pound	5
For each additional pound, up to 11 pounds	2
For fractional parts of a pound:	
Two ounces or less	1
Over 2 ounces and up to 4 ounces	2
Over 4 and up to 8 ounces	3
Over 8 and up to 12 ounces	4
Over 12 ounces and up to 1 pound	5

EXHIBIT 4.

In the Senate of the United States February 10, 1908, Mr. Kean introduced the following bill, which was read twice and referred to the Committee on Post-Offices and Post-Roads:

[S. 5115, Sixtieth Congress, first session.]

A Bill to increase the limit of weight of fourth-class mail matter, to amend the postage rates chargeable thereon, and for other purposes.

Be it enacted, etc., That parcels of merchandise or other matter not embraced in the first, second, or third class of mail matter, and not exceeding eleven pounds in weight, shall, subject to the provisions of existing law governing matter of the fourth class, except as hereby amended, be admitted to the mails as such matter at the following rates of postage: One ounce, one cent; over one ounce and not exceeding three ounces, two cents; over three ounces and not exceeding four ounces, three cents; over four ounces and not exceeding five ounces, four cents; over five ounces and not exceeding six ounces, five cents; over six ounces and not exceeding eight ounces, six cents; over eight ounces and not exceeding twelve ounces, nine cents; and over twelve ounces and not exceeding sixteen ounces, twelve cents.

EXHIBIT 5.

In the Senate of the United States February 10, 1908, Mr. Burnham introduced the following bill, which was read twice and referred to the Committee on Post-Offices and Post-Roads:

[S. 5122, Sixtieth Congress, first session.]

A Bill to provide a rural delivery parcel post for merchandise and other articles mailed on rural delivery routes, and for other purposes.

Be it enacted, etc., That the Postmaster-General is authorized, under such regulations as he may prescribe, to establish a domestic rural parcel post at

special rates of postage, for the delivery on rural delivery routes, of foodstuffs (including groceries, provisions, meats, fruits, and vegetables), dry goods, drugs, books, and other merchandise, unless the same shall be unmailable under this act or any other act as hereby amended.

SEC. 2. That such special rates of postage on such parcels of merchandise shall be five cents for the first pound and two cents for each additional pound or fractional part thereof, and on parcels weighing less than one pound as follows: Two ounces or less, one cent; over two ounces and not exceeding four ounces, two cents; over four ounces and not exceeding eight ounces, three cents; over eight ounces and not exceeding twelve ounces, four cents; and over twelve ounces and not exceeding one pound, five cents: *Provided*, That such postage shall be prepaid by ordinary postage stamps affixed to such parcels, and that the character of such matter shall be indicated by the words "Rural Parcel Post," stamped on each of such parcels by the postmaster or rural carrier receiving it: *Provided further*, That the establishment of such rural parcel post and special postage rates shall not in any wise affect the mailing of or postage rate on packages of third and fourth class matter, except within the limitations stated: *Provided further*, That nothing herein contained shall be taken as authorizing the acceptance or delivery at the special rates of postage herein provided of any parcel offered by any person acting as agent or representative, upon commission or otherwise, for any person or company not resident on such rural delivery route: *And provided further*, That only such parcels shall be received for delivery at the special rates of postage herein provided as are offered by bona fide merchants or dealers whose regular places of business are on rural delivery routes covered by this Act, in the ordinary and regular course of their business, and by residents on such routes in their individual capacity.

SEC. 3. That parcels covered by said special postage rates and deliverable by said rural parcel post under this Act shall not exceed eleven pounds in weight, three feet six inches in length, or six feet in length and girth combined, and such parcels shall conform to the Postal Laws and Regulations concerning mailability, except as they are modified by this Act and regulations promulgated in pursuance thereof.

SEC. 4. That perishable articles of food submitted for mailing under said rural parcel post shall not be accepted by postmasters or rural delivery carriers more than three hours before the departure of the mail, and then only at the risk of the sender, and the postmaster or rural carrier shall stamp or note on any such parcels the time of acceptance and of transmittal, and the words "At the sender's risk."

SEC. 5. That the provisions of this Act shall apply only to parcels mailed on and addressed to rural delivery routes, as follows:

(1) From the post-office or station from which one or more rural delivery routes emanate to any intermediate post-office or to any patron on any of said routes emanating from said post-office or station and supplied by rural carrier.

(2) From any intermediate post-office on any rural delivery route to the post-office or station from which said route emanates, or to any intermediate post-office, or to any patron on that or any other rural route emanating from said post-office or station and supplied by rural carrier.

(3) From any patron on any rural delivery route to the post-office or station from which said route emanates, or to any patron or intermediate post-office on that or any other rural delivery route emanating from said post-office or station and supplied by rural carrier: *Provided*, That in all cases where, under this Act, parcels are mailed at a post-office on a rural route which emanates from a station of such post-office, such parcels shall be offered for mailing at such station; and in all cases where parcels mailed under this Act are addressed to a post-office on a rural route terminating at a station of such post-office, such parcels shall be delivered to addressees at such station, and in the latter case addressees shall call or send for such parcels.

SEC. 6. That the proviso in the Act of April twenty-eighth, nineteen hundred and four, chapter seventeen hundred and fifty-nine (Thirty-third Statutes, page four hundred and forty), relative to the transportation of merchandise by rural carriers for patrons, is hereby repealed.

SEC. 7. That seeds, cuttings, bulbs, roots, scions, and plants, when mailed under this Act, shall be chargeable with the postage rates and subject to the limit of weight herein provided.

SEC. 8. That all provisions of law applicable to the third and fourth classes of mail matter, and all provisions of law applicable generally to mail matter, and not inconsistent with the provisions of this Act, are hereby extended and

made applicable to matter of like character mailable under this Act: *Provided*, That matter so mailable shall be subject to the rates of postage and the limitation of weight herein provided.

EXHIBIT 6.

From THE BOSTON HERALD.

MEYER WILL WAGE ACTIVE CAMPAIGN FOR PARCELS POST—HAS STARTED MACHINERY FOR HIS REFORM AND WILL MAKE GREAT EFFORT TO AROUSE AND EDUCATE PUBLIC SENTIMENT IN ITS FAVOR BEFORE CONGRESS CONVENES—AMERICA SHOULD CATCH UP WITH PROCESSION—TALKS ABOUT PLANS FOR THE HERALD—RÉSUMÉ OF THE OPERATION OF SYSTEM IN EUROPEAN COUNTRIES, THE COST OF TRANSPORTATION, AND BENEFITS WHICH ACCRUE.

[By Ernest G. Walker.]

WASHINGTON, D. C., *October 13, 1907.*

Postmaster-General George v. L. Meyer, in his speech at Boston Saturday upon his plan for a parcels post, has started the machinery for his reform with all the acumen of an old campaigner. He is going to put the matter squarely up to the people before Congress comes on the scene.

Quick and cheap transport for more of the innumerable small packages that Americans have to exchange is to be the dominant issue of a good business administration of the Post-Office Department. By and by Mr. Meyer is going out to make more speeches at places where they will do the most good for the cause. He wants to arouse and educate public sentiment.

The parcels post is not an exceedingly attractive subject to everybody. Probably hundreds of thousands of people who patronize the United States mails have never thought seriously about what a parcels post is, although it enters tremendously into the domestic, commercial, and industrial economics of the world. It is a vehicle for the carriage of billions of dollars of values annually. Admittedly the United States is far behind the procession. And yet the readiness with which a few pounds of a given article can be moved from Washington to Boston, or from town to town between the two great oceans, means a vast deal to the convenience as well as to the pocketbooks of a great number of people.

European countries employ the machinery of the posts in this herculean task. Many years ago they went far beyond the transmission of information through the mails, and utilized the service for the transmission of materials. The United States has been doing the same thing since 1863, but only to a limited degree. Mr. Meyer now wants this country to catch up a little.

WILL HAVE BILL DRAWN.

That is why he is trying to awaken the people to what he wants. He expects to speak in Philadelphia, Chicago, and other cities about the parcels posts, and by the time Congress is here will have a bill drawn. It will be introduced early in December, and will cover the changes the Postmaster-General intends recommending in his annual report. These will be the admission to the mails of parcels of a maximum weight of 11 pounds at 12 cents a pound (4 pounds is now the maximum at 16 cents a pound); and a local service on rural delivery routes at 5 cents a pound, with 2 cents for every additional pound up to 11. This local service will be confined to each rural route, and can not be extended beyond it. Mr. Meyer believes this, if adopted, will make the rural delivery of mail self-sustaining, and the postal service as a whole would probably yield a surplus.

Postmaster-General Wanamaker first actively urged the establishment of a parcels post on a large scale. He summed up the situation epigrammatically in his 100 reasons for it and only 4 reasons against it—those 4 being the express companies. Others after him, especially the late Postmaster-General Bissell, made like recommendations. But Mr. Meyer now has an advantage in his campaign which none of his predecessors had in the rural delivery routes. Every one of the many thousands of routes would be a little parcels service in itself, aside from being a line of communication, by which small packages could be conveyed from all parts of the country or to any part of the country. Mr. Meyer is building much upon that fact. The local service at cheaper rates will also protect the local storekeepers, to which the big department stores and mail-order establishments are bogeys.

ASKS NO RADICAL STEP.

If he can carry his recommendations through and persuade Congress to enact them into law it may be that he will have effected a greater advantage to the country than is likely to follow from any other transportation statute of the last decade. Parcels post enthusiasts at least think so, drawing their conclusions from observations of the service in Europe.

"I shall not urge any radical step," said the Postmaster-General recently, in explaining his plans. "I only want the present service extended toward such a domestic parcels post as we already have by postal treaties with a number of foreign countries. A service that the Government gives its own people with those abroad is none too good for us at home.

"The extension proposed would enable the Department to ascertain how far we can safely go, and also to adapt itself gradually to new requirements. It is a large business proposition. We do not know how much additional equipment would be needed eventually. Probably the equipment on the rural routes would be nearly adequate for the local and general parcels service. In the cities it might be otherwise. But by making a comparatively small extension of the service, we could determine whether it would be advisable to go farther. I shall only indicate in my annual report a belief that the establishment of a local parcels service in the big cities would be advisable, but shall not urge the incorporation of that feature into law at present.

"I anticipate opposition to this improvement of the postal service, but I believe it will not be influential after the details have been explained. I regard the apprehensions of the small storekeepers as without foundation. That has been the case in European countries, where the same kind of opposition has shown itself at times. The local service on the rural routes at lower rates will give the local dealers an advantage."

SEEKS EXPERTS' VIEWS.

Postmaster-General Meyer is taking pains to collect the opinions of postal experts on his recommendations. He will have the views of a large number of postmasters long before Congress convenes. They are being invited to present whatever objections they may see and also to offer practical suggestions.

Ever since he announced his intention of urging a better pracels post service for the United States, the Postmaster-General has been the recipient of many letters. These come from various classes of people. Most of them commend his plan, but the retail associations, such as the associations of hardware men and grocers, come out in bold opposition. It is such people as these that the Postmaster-General hopes to convert when they are brought to understand the details of what he wants to do. Some of these critics, besides claiming that the legislation would favor the catalogue houses, argue that the Government should not go into a general freight business and that if the express companies are charging exorbitant rates, the Interstate Commerce Commission, which now has authority over them, should step in and require that the rates be lowered.

The operations of parcels post in other countries make a very interesting transportation chapter. They are conducted on a gigantic scale and, apart from what J. Henniker Heaton, long an English member of Parliament from Canterbury, and a great advocate of postal reforms, calls "grandmotherly regulations," have worked with practically world-wide success. Shopping by mail is made easy, whether one in the country would trade with the local draper or the big metropolitan merchant.

FACILITATED BY TELEPHONES.

An extension of parcels posts in the United States would be enormously facilitated, as the matter is viewed at the Post-Office Department, by the prevalence of telephones. Farmers and culturists now have them the country over. Telephone wires have followed in the wake of the rural free delivery wagon. The postage is now too expensive and the limit of the package too small. But instead of a 4-pound package for 16 cents, let there be a 11-pound package for 25 cents and the rural routes will do a rushing business. Rural patrons will telephone to town for half the things they want—for hardware, groceries, and dry goods—and in turn will be sending to town butter, cheese, eggs, and vegetables. A great saving of time in many branches of industry will be possible under the general extension that Mr. Meyer wants. It would be a boon to manufacturers of a great variety of small articles. The Postmaster-General refuses to con-

sider whether this would injure the express companies. He approaches the matter purely as a parcels post extension that should give postal patrons a quicker and cheaper service.

Great Britain's conservative enactments will likely be a model for any extension of the parcels post service by Congress. The service is almost twenty-five years old over there. It has become one of the most important and highly appreciated postal features. Its growth has been continuous and phenomenal. The scope has frequently been broadened. There was an early clamor for an agricultural parcels post. The owners of small farms in remote localities wanted it. The growers of spring flowers in Kerry said it would enable them to compete with the south of France and the Scilly Isles. Eventually the agricultural parcels post was authorized and also spacious dimensions for packages. Flower growers can now send full length orchid spikes and long-stemmed roses by post, where formerly only simple blooms were admissible.

SEND FISH, EGGS, AND FRUIT.

The produce of the culturists goes forward to London and other big English cities in tremendous volume. Fresh fish, dispatched from seaport towns to the large hotels, are delivered with celerity. Meats, cheese, fruits, vegetables, and freshly laid eggs in mail packages under the 11-pound limit form a very considerable factor in the commerce of the Kingdom.

The general rates are low. A 1-pound parcel takes a threepenny stamp. That is 6 cents in our money. For 2 pounds an 8-cent stamp is required; for 3 pounds, a 10-cent stamp; for 5 pounds, 12 cents; for 7 pounds, 14 cents; 8 pounds, 16 cents; 9 pounds, 18 cents; 10 pounds, 20 cents, and 11 pounds, 22 cents. Four-pound parcels cost as much as 5 pounds, and 6 pounds cost as much as 7 pounds. For inland parcels 3 feet 6 inches is the maximum length; 6 feet the maximum measurement for length and girth. These have been adopted as standard dimensions in the services of numerous other countries. Parcels should not be posted at a letter box, but presented at the counter of a post-office. The Government virtually guarantees the sender against loss up to $10. Payment of a registry fee of 4 cents, in addition to the regular postage, insures the parcel for $25; a 25-cent registry stamp carries an insurance of $1,000. There have been demands, not yet conceded, for the cash on delivery system that several European countries have adopted.

The big retail stores of London avail themselves extensively of the parcels service for delivery of goods. The rates, ranging from 6 to 22 cents, are not prohibitive. In many cases the Government service is cheaper and quicker. Laundries return washing by parcels post. In Germany, where the rates are even cheaper, lads away at school send their soiled linen home by mail to be washed, and it is returned to them by the same conveyance.

POSTED LIVE BABY.

Many curiosities, as well as staple articles of trade and foodstuffs, are carried in British parcels. A live baby, it is said, was posted in London not long ago and promptly delivered at its destination. A mouse was brought all the way from India, where the parcels post has been developed much more than in England. Several kinds of live animals, including bees, are accepted, if "properly packed."

Sydney Buxton, the postmaster-general of Great Britain, in his last report, statistically demonstrates the continuous growth, and consequently the popularity, of the parcels post in the United Kingdom. The number of parcels delivered in the country districts of England and Wales in 1896–97 was 41,512,000, and increased annually by from 3 to 6 per cent, till in 1905–6 the number was 66,277,000. In the London district for the same ten-year period the increase was from 11,229,000 parcels to 18,167,000. A similar increase was shown for Scotland from 6,802,000 to 10,725,000 parcels, and for Ireland, where the increase was from 4,172,000 in 1896–97 to 6,513,000 in 1905–6.

The gross amount of revenue the Government collected increased from £1,445,126 for 63,715,000 parcels in the United Kingdom the first year of the decade to £2,138,673 for 101,682,000 parcels in the last year of the decade. The post-office's share of these collections increased from £763,307 to £1,142,224. The average postage per parcel decreased during the period from about 11 cents to 10 cents. The postmaster-general undertakes to deliver both letters and parcels at every house in the Kingdom. They are delivered by the same postman, except in the large towns, where there is a special staff for parcel work.

CALL SWISS SERVICE BEST.

Because of competition from private agencies, that have charges graduated on a basis of distance, there is a tendency for an unduly high proportion of long-distance parcels and parcels for delivery in rural districts, which are the least remunerative. The post-office has met this competition by establishing, for comparatively short distances, a large number of horse and motor parcel van services, as road conveyance for these distances makes possible an economy as compared with conveyance by railway at the charge of 55 per cent of the receipts.

The Swiss service is cited much as one of the most efficient and satisfactory in Europe. The mountain villages and resorts of that industrious little country receive a large portion of their supplies by post, as a maximum weight of 110 pounds is carried within a radius of 62 miles. The conditions there are somewhat the same as with the dwellers in the Appalachian and Blue Ridge mountains, to whom it has been declared that a parcels post would be a great boon because there is no prospect that either the railroads or the express companies will ever approach their hamlets and villages.

This Swiss law includes an agricultural parcels post and likewise a passenger post, agitation for both of which has generally followed the establishment of parcels post in most countries. The passenger post of Switzerland is something like the mail coaches in the United States before the coming of railroads, except that the coaches are owned by the State and the fees are prescribed by the same authority. A very large business is done in sending parcels through the mails. A treasury official, who was traveling in Switzerland during the past summer, saw at one railroad station several enormous baskets filled with hams and provisions. They were samples of mail parcels under the 110-pound limit.

CASH ON DELIVERY PLAN.

The general rates are more liberal than in any other country. A parcel weighing 1 pound is carried anywhere within the boundaries of the Federation for 3 cents, a 5-pound parcel for 5 cents, a 11-pound parcel for 8 cents, a 22-pound parcel for 17 cents, a 33-pound parcel for 23 cents, and a 44-pound parcel for 33 cents. Parcels weighing as much as 110 pounds are carried within a radius of 62 miles for 60 cents, which enables many of the peasants to market much of their light produce by mail. The rates are so adjustable that housewives can secure anything by post from a paper of pins to a bag of flour. The V. P., or value payable, system is a part of the Swiss postal arrangements, so that the purchaser can pay for his goods on delivery, and there is but one financial transaction connected with the purchase as far as he is concerned. A provision for delivery makes the service all the more attractive.

Belgium's parcel post has even a higher weight limit than Switzerland, for it accepts articles of 62 kilograms, or about 132 pounds, in one package, and puts no limit upon the size, except that unwieldy packages are subject to an extra charge of 50 per cent. But up to five kilograms, which is the conventional 11-pound limit of a majority of the parcels post countries, the charge is 50 centimes, or 10 cents; for 10 kilograms 12 cents, and two cents extra for every additional 10 kilograms (22 pounds). A higher charge is made in Belgium, as in several other European countries, if the parcel is to be carried on an express train. It amounts to six cents for five kilograms. The fee for delivering at residence is six cents additional.

Germany and Austria maintain the 50-kilogram limit. The first named country enforces the 50 per cent extra charge for unwieldy articles. It also has what is called the zone system. For conveyance 10 geographic miles the charge is six cents (25 pfennigs), and 13 cents (50 pfennigs) for greater distances. If the parcel weighs more than 11 pounds there is a charge of one cent (five pfennigs) for each additional kilogram carried 10 miles, 10 pfennigs for 20 miles, 20 pfennigs for 50 miles, 30 pfennigs for 100 miles, 40 pfennigs for 150 miles, and 50 pfennigs, approximately 13 cents, for more than 150 miles. The same rate of charges applies in Austria.

A TABLE OF CHARGES.

The French parcels post law requires presentation at the railroad station. Some other European countries, like Great Britain, require it to be delivered at the postoffice. The French maximum weight is 10 kilograms (22 pounds) with-

out any restriction as to size. The postage rates are 12 cents up to 3 kilograms; 16 cents up to 5 kilograms, and 30 cents up to 10 kilograms. These rates are for delivery at a railroad station. An extra fee of 25 centimes (5 cents) is charged for delivering the parcel at the residence of the addressee.

A table of the parcels post charges of several countries follows. It shows the maximum weight carried, the minimum charge collected, and also the charge for an 11-pound package, the limit for many of the parcels post countries.

	Maximum weight of parcel.	Minimum charge for a parcel.	Charge for 11 pounds.
Australia	11	$0.12	$0.72
Austria	110	.06	.12
Belgium	132	.10	.16
Chile	11	.10	.17
Cuba	11	.10	.46
France	22	.12	.16
Germany	110	.06	.13
Great Britain	11	.06	.22
Italy	11	.12	.20
Switzerland	110	.08	.68
The Netherlands	11	.06	.10
United States	4	.01	1.32

Certain of the figures in the table are only approximately correct. The 11-pound rate for a Belgium parcel, for instance, is put down at 16 cents as that is the rate for carriage by express train, which perhaps more nearly compares with mail trains in the United States. By slow train 11 pounds go for 10 cents. Perhaps, also, an extra charge of 6 cents for delivery should be counted in the Belgium figures for purposes of fair compensation because much of the mail in the United States is delivered.

AVERAGE DISTANCE GREATER HERE.

In the figures for the United States it should be borne in mind that the minimum charge of 1 cent is for an ounce and that the rate of 16 cents a pound, which it amounts to, might be better for a comparative table; also, that it is impossible to send 11-pound parcels by mail in the United States, except when they are to go abroad to certain countries with which parcels post conventions have been concluded.

In a general way the table indicates that the cost in Great Britain or the Continent for sending an 11-pound parcel is in the vicinity of 20 cents. The minimum charge is sometimes for a pound, as in the case of Great Britain, and sometimes for several pounds, as 11 pounds for 10 miles in the case of Germany; or up to 7 pounds as in the case of Italy. The great disparity in rates is apparent, as is the fact that Mr. Meyer's proposition of a 12-cent per pound rate is comparatively very high.

Certain elementary items of cost enter into the service of European countries that would not be identical with the maintenance of a similar service in the United States. In Germany a considerable mileage of the railroads is state owned. They carry certain parcels in the mails without compensation. In large sections of Europe there has never been anything like adequate service by express companies, and in the absence of business enterprises in establishing such transportation the people have been compelled to look to their governments for relief. The cheap rates for parcels post there were originally, in some part, intended as an accommodation for the poorer classes.

The distances for transportation are less and the population is denser. The United States is 225 times larger than Switzerland, 60 times larger than England, 17 times larger than Germany, 12 times larger than the three countries combined. In England the average distance a letter or mail package travels is 40 miles; in Germany it is 42 miles; in the United States it is said to be 562 miles.

DIFFICULT TO ESTIMATE COST.

No accurate information is available as to whether the European parcels posts are in reality self-supporting. They certainly are nearly so, and in some instances are regarded as profitable government ventures. Everywhere the service is characterized by prompt transmission and prompt delivery. The

percentages of loss are very small. The several national constituencies that have a parcels post system would no more relinquish such privileges than American cities would relinquish electric lights or automobiles. One European enthusiast pronounced the establishment of the parcels post "a service to mankind only less splendid than that of the transmission of thought."

In England it is claimed the parcels post service would be a source of profit but for the amounts paid to the railroads for transportation, the share of 55 per cent of the receipts being regarded as exorbitant. Generally the parcels post is so joined with the rest of the mail service that its entire cost can not be counted.

The international business has grown to enormous proportions. The figures collected at Berne for 1904, in connection with the Postal Union, show that the parcels mailed across the frontiers of 36 nations and colonies that year numbered something like 38,000,000. The small percentage of that total, where the value was declared, showed an aggregate of about $162,000,000 worth of property. In that list the United States would have stood about eleventh on the showing for the fiscal year of 1906, when 264,438 parcels of an average weight of 2⅞ pounds were sent from this country abroad. Tunis sent more according to the figures than the United States. Germany, leading all other nations both in the dispatch and receipt of parcels in international mails, sent a total of 11,675,385, of which 11,343,516 were classed as "ordinary," and 331,869 were "with a declared value" of $23,352,378. Austria, enjoying close postal relations with Germany, dispatched 10,659,300 parcels to other countries, of which 1,082,430 had a declared value of $68,396,578.

HAS BECOME GREAT FACTOR.

The totals of "receipts" and "dispatches" of course balance for the 36 countries in question, but are not the same for each country represented. The rank in parcels dispatched runs: Germany, Austria, France, Hungary, Great Britain, Switzerland, Italy, Belgium, Netherlands, Tunis, British India, Bosnia-Herzegovina, Russia, Denmark, Luxemburg, Japan, and Egypt; in parcels received the order is: Germany, Hungary, Austria, Switzerland, France, Italy, Great Britain, Belgium, Russia, Netherlands, Denmark, Roumania, Spain, Bosnia-Herzegovina, Sweden, Norway, Luxemburg, Tunis, and so on. Switzerland in 1904 received across her borders 2,788,406 parcels by post, of which 2,635,090 were "ordinary" and 133,316 were declared of a value of $9,863,886. Of 6,352,360 parcels that came over the Austrian frontier, 778,380 had a declared value of $64,788,927. Germany received 7,337,404 parcels in international mails, of which 482,472 had a declared value of $35,901,435. The parcels received by post in the United States during the fiscal year 1906 from abroad were recorded as 131,064, of an average weight of 2.73 pounds. Probably the actual number was much larger, perhaps twice as large.

Sufficient figures have been given to indicate what a great factor the parcels post has become in the trade of the world. The value of the merchandise thus transported can only be roughly estimated, but it will probably exceed half a billion dollars annually.

This business is transacted across frontiers, causing little or no friction with customs officers. Boxes with declared value are subject to the legislation of the country of origin or destination as regards payment of stamp duties on articles exported and as regards the control of stamp and customs duties on articles imported. The stamp duties and charges for examination by customs officers involved in the importation are collected from the addressees when the articles are delivered.

PROVISION FOR INSURANCE.

Practically the same rules apply for all parcels post. There is provision for insurance and also for "trade charges," which latter term means that goods can be sent c. o. d., the maximum value being f.1000. The limit of weight is 5 kilograms, or 11 pounds. The cost of conveyance comprises a charge of 10 cents for each country participating in the territorial transit, a graduated distance tax for sea conveyance and extra rates for cumbersome parcels, and may be increased under certain conditions by delivery fees and, in case of declared values, by insurance fees. Weights under 2 pounds, however, are transported for a maximum of 1 franc. Special forms are provided for registering for customs declaration, for certificate of prepayment, when that is desired, and for trade charges.

The United States is not a party to this comprehensive parcels post convention, by which a vast quantity of merchandise is carried to different parts of the world annually, but Argentina, Bolivia, Chile, Colombia, Guatemala, Uruguay, and Venezuela are among the signatories. But the United States has parcels post conventions with 33 different countries on some what different but fairly liberal terms. It keeps the postage for parcels it sends to other countries and they in turn retain the postage on parcels sent here. That saves in bookkeeping and has been found economical, whereas the more comprehensive convention, under which most of the European and Asiatic countries operate, divide the postage receipts pro rata. The United States will not transmit through its mails parcels en route from one foreign country to another. Among the latest parcels post conventions the President has ratified under statute authority are those with Sweden, Peru, Denmark, Ecuador, and Bermuda.

CUSTOMS EASILY COLLECTED.

The popularity in this country of the parcels post is well demonstrated by the great growth in the use of international facilities. The dispatches from this country for the fiscal year ending June 30, 1905, amounted to 560,228 pounds and for the year ending June 30, 1906, was 721,164 pounds, an increase of 28.73 per cent. Only one-fifth of the dispatches of the last-mentioned fiscal year went to Europe, which indicates that a good share of the parcels business was with Mexico and Central South America. Parcels for Germany, Hongkong, Japan, Norway, Belgium, Great Britain, Sweden, and Denmark are accepted only for a maximum weight of 4 pounds and 6 ounces, where the maximum weight for the other countries with which the Postoffice Department now has conventions is 11 pounds.

The customs officials say that the parcels post business with foreign countries is increasing by leaps and bounds. Within recent months better facilities for the collection of customs dues have been inaugurated, with the result, it is said, that many packages which hitherto passed without being noted are now being examined and recorded. There are offices of exchange, so called, in several of the larger post-offices of the United States where customs officials are stationed to attend to the collection of duties on these parcels from abroad. In the Washington City post-office this foreign parcels post business is said to have increased 300 per cent within the last twelve months. The Treasury Department keeps about 25 customs employees now on duty at the New York City post-office to attend to the foreign parcels post business which goes through that office. Dutiable packages to minor offices are handled from exchange offices. Such mail addressed to Plymouth, Mass., for instance, would be held till the addressee had forwarded to the postmaster at Boston the amount of duty required.

INSPECTORS ON WATCH.

The customs officials find no serious difficulties in the enforcement of the laws with reference to the foreign parcels post. There was at first some abuse of the privileges which the parcels conventions offered, but the obstacles that the customs inspectors encounter are minor ones, and the Treasury Department expects they will be eliminated. Many of them have already disappeared under the new regulations for "mail importations" which were issued last March.

The inspectors are on the watch for parcels that happen to be sent from countries with which the United States has arrangements solely under the universal postal convention. Commercial papers not exceeding 4 pounds and 6 ounces in weight and samples of merchandise not exceeding 12 ounces may be brought here under that convention, but parcels are tabooed, and subject the sender to a fine. Parcels from countries having parcels post conventions with the United States are inspected for dutiable articles, but fines are not imposed except for articles such as cigars and cigarettes that are put up in illegal quantities. A declaration of the dutiable articles is required with each parcel.

Anything as bulky as a box containing a new spring hat can be sent to most of the American countries or colonies, ranging from Newfoundland to the Danish West Indies and Chile, under existing parcels post conventions. With a few exceptions, parcels can be sent to those American countries of a maximum length of 3 feet and 6 inches and of a maximum length and girth combined of 6 feet. The rate is 12 cents a pound or fraction thereof. Registry costs 8 cents in addition thereto.

TO MAKE PEOPLE REALIZE.

The customs officials likewise inspect another class of mail importations—those which come under existing postal conventions with Canada, Mexico, Cuba, and the Republic of Panama. No declaration of contents and value is required from those countries and everything is admitted that is allowed under the postal laws of the country where the mail originated.

The legislation that Postmaster-General Meyer has in mind comes home to practically every household in the United States. There is hardly a family in all the land that would not find it a decided convenience at times. If Mr. Meyer succeeds in making the people realize this and the arguments for the improvement of the service become generally understood, no opposition can prevail against it. Congress will be quick to see the virtues of a better parcels post, and the new law will be enacted with a whoop.

EXHIBIT 7.

[From GOVERNMENT for December, 1907.]

OMAHA, NEBR., *October 25, 1907.*

GEORGE V. L. MEYER, *Postmaster-General, Washington, D. C.*

MY DEAR SIR: Your communication of October 18 received, for which I thank you. I am sending you herewith some editorial comments, collected from a number of trade papers. These may be of interest to you. The Trade Exhibit, I am pleased to state, is the first trade paper in the United States to approve your position as to a parcel post. During the past four years I believe I have circulated more antiparcel-post literature than any other individual in the United States. All my work has been directed against the establishment of any parcel-post system that would be unfair to the retail merchants, and which might be considered a subsidy to the mail-order system of business, and by making a rate much lower than cost of transportation to the Government would tend to concentrate business in districts where the price of labor is the lowest.

I inclose you a little pamphlet which I prepared two years ago. It is only one of the many like articles that I prepared for circulation, and which formed the basis of the antiparcel-post articles appearing in numerous trade journals. I also delivered many addresses before commercial bodies and merchants' organizations in Nebraska, Colorado, Kansas, and other Western States. I would still continue to oppose a widening of our parcel-post system did I believe that it would be injurious to those sections of our country which are now undergoing development.

After a most careful study of the plan you propose, I can not discover a single objection that can be based upon sound economics. Rather, a parcel-post extension, as you propose, will be helpful to enterprising retailers, and will assist in the building up of home industries in the so-called agricultural towns. Should any effort be made, when your proposition be laid before Congress, to have a lower rate instituted than that which you propose, I will use what little influence I have in opposing such a move.

Assuring you what little support I can give to the plan that you propose will be given, I beg to remain,

Yours, respectfully,

OMAHA TRADE EXHIBIT.
Per D. M. CARR, *Editor.*

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percentages of loss are very small. The several national constituencies that have a parcels post system would no more relinquish such privileges than American cities would relinquish electric lights or automobiles. One European enthusiast pronounced the establishment of the parcels post "a service to mankind only less splendid than that of the transmission of thought."

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LETTER OF TRANSMITTAL.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, March 10, 1908.

SIR: I have the honor to acknowledge the receipt of copy of resolution of the Senate, dated March 2, 1908, directing me to furnish for the information and use of the Senate copies of certain reports relating to the Alaskan seal fisheries.

In accordance with the direction of the President, I have the honor to transmit herewith copies of all the reports made by the special agent of the Department of Commerce and Labor in charge of the seal islands of Alaska during the years 1906 and 1907, and including all reports made to him by his assistants, upon the condition of the fur-seal herd and the conduct of affairs on said islands.

In this connection I have the honor to state that the originals of the inclosures with said reports, and not copies, are herewith transmitted, to obviate the delay that would be occasioned by having copies of these inclosures made. If it is the purpose of the Senate not to publish the reports submitted herewith, I shall be grateful if the original inclosures mentioned be returned to the files of this Department after the Senate has made such use thereof as it desires.

Respectfully,

OSCAR S. STRAUS, *Secretary.*

The PRESIDENT OF THE SENATE.

REPORTS ON THE ALASKAN SEAL FISHERIES.

PRELIMINARY REPORT OF JUNE 11, 1906.

[By W. I. LEMBKEY, Agent in Charge of Alaskan Seal Fisheries.]

ST. PAUL ISLAND, ALASKA, *June 11, 1906.*

SIR: I have the honor to report my arrival at St. George Island, Alaska, on the 8th instant, and on St. Paul Island on the 9th instant. The administration during the winter of Assistant Agent Chichester on St. George Island and of Agent Clark on St. Paul Island were highly satisfactory, and both officers should be commended for the careful and able manner in which the interests of the Government were conserved on the islands.

The conditions found upon my arrival may be stated briefly as follows:

SEALS.

On St. George I found that the entire food quota for that island of 300 seals had been taken during the fall. No killing for food had been made on St. George Island this spring.

On St. Paul I found by the record that 1,701 skins were taken for food by the Government agent since the close of the last sealing season, including the 281 skins left on hand from the previous season.

COUNTS OF BULLS.

Because of the fact that the vessel spent only one day at St. George, it was not possible for me in that limited time to inspect all the rookeries on that island. In the forenoon, however, in company with Mr. Marsh, of the Bureau of Fisheries, I made a count of North Rookery, and in the afternoon I made a count of East Rookery, Little East, and East Reef. A count of Staraya Artel in the morning was not feasible, as a band of bachelors was hauled there, from which a drive was contemplated to be made immediately after the departure of the vessel. Our visit to that rookery would have driven these young males into the water. The counts made, as above stated, compared with those made at the same time the preceding year, follow:

Rookery.	1906.	1905.	Decrease.
			Per cent.
North	64	94	32
East	33	46	28
East Reef	11	14	21
Little East	8	15	46

These counts indicate strongly that at the height of the season approaching, namely, on or about July 15, a decrease in adult male seal life will be developed, even larger in extent than that noted in previous years. While climatic conditions, unascertained at present, may have prevented bulls from arriving this spring as fast as they did in 1905, it is very probable that the decrease in bulls, apparent at this time, will be equally noticeable at the height of the season.

On St. Paul the following counts were made since our arrival by Mr. Judge, assisted by Mr. Marsh, with the counts made on the same date in 1905 inserted for purposes of comparison:

Rookery.	1906.	1905.	Decrease.
			Per cent.
Gorbatch Cliffs	7	9	22
Gorbatch	79	111	29
Ardiguen	10	8	[a] 25
Ketovi	33	46	28
Amphitheater	6	7	14
Lukanin	35	40	12
Lagoon	19	22	13
Tolstoi Cliffs	26	27	8
Tolstoi	86	104	17
Zapadni	108	158	31
Little Zapadni	64	63	[a] 1
Zapadni Reef	14	28	50
Little Polovina	8	11	27
Polovina Cliff	23	32	25
Polovina	43	49	12

[a] Increase.

These counts, covering all the rookeries on this island with the exception of Northeast Point and Sea Lion Rock, would demonstrate that a decrease similar to that found on St. George has occurred on St. Paul. No idea of the number of the herd of females can be obtained, as but 3 cows are reported at this time to have arrived on the islands. The influx of breeding females, now just beginning, will continue until approximately the 15th of July.

NUMBER OF YOUNG BULLS.

The most significant fact developed by our first inspection of the rookeries is that the greater proportion of the bulls present this year are young animals between the ages of 7 and 9 years. On North Rookery, St. George, only 2 old bulls were seen, the marks of old age, especially their sluggishness and broken-down canines, placing them in the class of aged bulls. All the others were prime, but the greatest number were, as stated, young bulls arriving on the rookeries for the first time as full-fledged harem masters.

On North Rookery, St. George, fully 50 per cent of the bulls were of this class. On East Rookery the opportunity for close inspection was not as ample, but many of this class were observed. On Gorbatch, St. Paul, a careful count, based upon a close and painstaking inspection of each bull present, developed the fact that 54 out of 77 bulls found were 7 or 8 year olds. Mr. Judge reports the same condition to exist on the other rookeries visited.

It is hardly possible to believe that the rookeries are receiving this year the first fruits of the reservation of males in 1904, as the 3-year-olds of that year are but 5-year-olds to-day, and the 2-year-olds then are now only 4-year-olds. If any 4-year-olds were branded in 1904,

they could to-day be only 6-year-olds and, consequently, not fully developed bulls.

Whatever may be the cause of the appearance of these young bulls, their presence is doubly emphasized by the absence of the old bulls, which affords an opportunity for closer scrutiny.

FOXES.

On St. George during the past winter 1,044 foxes were trapped, of which 463 were killed and 581 released for breeders. Those killed, as above stated, together with foxes found dead outside the trap, made a total of 468 blue skins and 12 white skins offered to the agent of the lessee. Of these, the agent accepted 456 blues and 11 whites and rejected as defective and undesirable 12 blues and 1 white. This trapping shows an increase over the preceding year of 278 foxes handled and 191 killed.

On St. Paul no trapping of foxes was done during the past winter. The number of foxes on the island, however, is reported to have increased greatly during the winter and numbers of foxes were seen around the village, a most unusual sight in recent years. There is every reason to believe that the fox herd on St. Paul is small.

NATIVES.

The general health of the natives during the past winter has been good. Since July 1, 1905, there have been 5 deaths and 9 births on St. Paul and 2 deaths and 6 births on St. George, a net increase in the population of 8.

Reports will be made as often during the summer as the mail facilities will permit.

Respectfully, W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

The SECRETARY OF COMMERCE AND LABOR.

PRELIMINARY REPORT OF OCTOBER 15, 1906.

[By W. I. LEMBKEY, Agent in Charge of Alaskan Seal Fisheries.]

DEPARTMENT OF COMMERCE AND LABOR,
DIVISION OF ALASKAN FISHERIES,
Washington, October 15, 1906.

SIR: I have the honor to submit the following summarized report of affairs on the seal islands of Alaska during the season of 1906, just closed:

NUMBER OF SEALS KILLED.

There were killed on St. Paul Island during the period from August 1, 1905, to July 31, 1906, 12,643 seals (including the skins of 281 left on hand from the previous season), and on St. George 2,000. From this number killed there were retained by the Government agents 83 small and 23 large skins on St. Paul and 55 small and 5 large on St. George, a total for both islands of 166, as having been taken contrary to the provisions of the current regulations which forbid the killing of seals having skins weighing less than 5 pounds or more than 8½ pounds. These ineligible skins are held on the islands awaiting instructions from the Department regarding their final disposition.

The lessee company, therefore, was able to take only 14,643 skins toward their quota of 15,000.

RESERVATIONS OF BACHELORS.

In accordance with the regulations of the Department which require the marking of 2,000 2 and 3 year old males, in the proportion of 1,000 of each class, 1,600 to be selected on St. Paul and 400 on St. George, as a reservation for future breeding purposes, I have to report that the following number of seals were so marked:

	2-year olds.	3-year olds.	4-year olds.
St. Paul	869	880	31
St. George	200	200	58
Total	1,069	1,080	89

These seals were marked by having a portion of the hair and fur from the head clipped off with sheep shears, making thus a mark readily apparent to the clubbers.

PERCENTAGE OF SEALS KILLED.

On St. Paul during the past summer, out of a total of 18,411 animals appearing in the drives there were killed 10,942, or 59 per cent. On St. George, of 3,260 animals driven, 1,685, or 51 per cent, were killed.

COUNTS OF BULLS.

On St. Paul counts of breeding bulls at the height of the season showed 1,244 bulls, 1,205 harems, 39 idle bulls, and 41 young bulls present on the rookeries but not holding their positions when approached, termed by us "quitters" and not included in the total of regular breeding bulls. At the height of the season of 1905 there were 1,574 bulls, 1,455 harems, 75 idle bulls, and 44 "quitters." This shows a decrease during the year of 330 bulls, or 21 per cent; a decrease in harems of 250, and in idle bulls of 36.

On St. George the counts last summer showed 204 bulls, 196 harems, 3 idle, and 13 "quitters" present at the height of the season. In 1905 similar counts disclosed the presence of 280 bulls, 258 harems, and 22 idle bulls, a decrease in one year on that island of 76 bulls, or 27 per cent, together with a decrease in harems or seal families of 62.

COUNTS OF PUPS.

On St. George an actual count was made of all pups born on the island last summer, which showed 11,233 live and 224 dead pups. In 1905, 12,699 live and 253 dead pups were counted, from which it is apparent that a decrease on that island has occurred in pups born during the year's interval of 11 per cent.

On St. Paul the usual counts were made during the summer until July 16, when that island was surrounded by Japanese pelagic sealing schooners, killing seals close to shore. In view of their continued presence and the fact that the counting of the rookeries at this period of the season would result in driving off into the water numbers of breeding cows to run the gauntlet of the schooners' guns, further counts were discontinued from that date and the annual enumeration of pups was not made on that island.

The counts of cows, however, made previous to the arrival of the Japanese showed that a decrease as great as that disclosed by the count of pups on St. George had occurred up to that time among the herd of breeding cows on St. Paul. Since that time the great slaughter of breeding seals during the months of July, August, and September by the pelagic fleets of both Japan and Great Britain has resulted in a loss of life beyond anything that the herd has suffered for years past. The exact measure of this loss can not be known until next spring, when the reports of the agents now on the islands will have been received. Conservative estimates, however, indicate that the herd, which in 1905 consisted of some 223,000 animals of all classes, now numbers probably not more than 185,000.

PELAGIC SEALING.

This unusual decrease, as already stated, has been caused by the great activity among pelagic sealers during the past summer in the immediate vicinity of the islands, and especially around St. Paul. This island, where four-fifths of the Pribilof herd has its habitat, was surrounded in July last by a fleet of 13 or more Japanese sealing schooners, the crews of which not only killed seals in the water in the immediate vicinity of the island, but carried on their sealing operations in many instances within the 3-mile limit, culminating in a

raid on the breeding rookeries themselves, in which the crews of 4 vessels acted in concert.

The latter incident is briefly stated as follows:

On July 16 a boat's crew of 6 Japanese landed on Northeast Point Rookery, St. Paul Island, armed with a full equipment of sealing paraphernalia, and were arrested by the agents of this Department and the native guard before the marauders were able to kill any seals.

On the morning of July 17 a boat's crew of 3 Japanese, armed with shotguns, attempting to land on the same rookery, were arrested by the native guard and, when they attempted to escape, were fired upon, 2 of the boat's occupants being killed and the third wounded.

On the evening of the same day, under cover of a dense fog, a Japanese schooner anchored within 300 yards of the same rookery and, landing its crew in small boats, succeeding in killing about 185 breeding seals, all but 2 of which were females in milk, and in securing the skins of about 120. Upon discovery by the agents and the native guard the marauders attempted to escape with their plunder and, refusing to halt and submit to arrest, were fired upon by the native guard and one boat captured, containing 6 Japanese, 1 of whom was dead and 1 wounded. The body of another floated in the water and was not recovered by the boats, while the body of a third is believed to have been thrown overboard from the schooner upon the return of the boats. In this engagement the agents and the native guard were subjected to fire from the deck of the schooner, without, however, any casualty. Because of lack of means it was not possible to capture the schooner nor to retake the sealskins already removed from the island.

Simultaneously with this, on July 17, an attempt to land under cover of the fog was made at Zapadni Rookery, 14 miles from Northeast Point, by 3 boats, containing 18 men, from another schooner. Upon discovery the native guard, which consisted of 2 men, at once opened fire and continued firing until the boats retreated and were lost in the fog. It is not known whether any casualties occurred.

On July 16, the day previous, a schooner was observed close to Otter Island, which is 8 miles from St. Paul and uninhabited. On August 8 this island was again visited by a schooner, and 3 boats' crews were seen to land there.

While no further attempt was made to land on St. Paul Island, sealing schooners were seen almost daily off the island thereafter, sometimes close to shore. On August 1, 2, and 3, during a dense fog, shotgun firing from small boats was heard continuously, together with the firing of cannon, used probably for signaling. This firing of shotguns and cannon resulted in great disturbance of the rookeries, even if the seals actually killed by the poachers were not taken into account. An occasional lifting of the fog would disclose the presence of both schooners and small boats close to shore. On August 23 seven schooners were visible at one time from St. Paul Island. From their tactics it would appear that the schooners took advantage of every foggy day to approach quite close to the island, while in clear weather they laid off outside the territorial limit.

Aside from the lawless and high-handed character of the raids made upon the breeding rookeries themselves, which involved the es-

sence of piracy, if they did not come within the exact legal definition of that crime, the continued killing of breeding seals around this island during the summer, within a few miles at least of where they have their young, has caused an immense loss of seal life. Falling, as it does, upon a herd already depleted to a minimum, there is little question that in a comparatively short time such reckless slaughter will accomplish the commercial extinction of the species.

The unexpected loss of so many breeding seals from the herd this summer through pelagic sealing shows plainly the necessity for speedy action on the part of this Government if it would preserve from extinction this valuable and interesting species. Beyond the commercial aspect of the situation there is the further one of preserving from ruthless extermination this useful and interesting inhabitant of the sea, which, unless rescued through the efforts of this Government, will soon be numbered with the buffalo and other practically extinct species. This would be a deplorable loss to the industrial world, considering the great number of people supported by the sealing business in its various phases with the herd maintained at its best. But, if viewed from the standpoint of humanity, every feature of this brutal slaughter of mother seals lying beside their nursing young, thereby subjecting the latter to lingering death by starvation, is repulsive to generous sentiment.

I shall submit a detailed report to the Department covering the season's work as soon as possible.

Respectfully, W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

The SECRETARY OF COMMERCE AND LABOR.

ANNUAL REPORT SEAL FISHERIES OF ALASKA, 1906.

[By W. I. LEMBKEY, Agent in Charge of Alaskan Seal Fisheries.]

DEPARTMENT OF COMMERCE AND LABOR,
DIVISION OF ALASKAN FISHERIES,
Washington, December 14, 1906.

SIR: I have the honor to submit herewith my report of the conduct of affairs on the seal islands of Alaska for the season of 1906.

I left Washington May 12, 1906, under instructions from the Department, took passage on the North American Commercial Company's steamer *Homer*, which sailed from Portland, Oreg., May 22, arriving at St. George Island June 8 and St. Paul Island June 9. I left St. Paul Island July 20 and proceeded with Japanese prisoners to Unalaska on the U. S. S. *McCulloch*. Returning to St. Paul on the same vessel July 26, I left the next morning on her for Unalaska, Kodiak, and Valdez, to attend the United States court at the latter place as a witness in the case of the United States against 12 Japanese arrested for raiding St. Paul Island. I left Valdez September 5 on the *Excelsior* and arrived in Washington September 20, having stopped en route at Chicago, as directed by the Department, for a conference with Hon. E. W. Sims, United States attorney.

This report lacks the usual count of pups and the various collateral counts made on St. Paul between July 15 and 31, for the reason that this island after July 15 was surrounded by a large fleet of Japanese pelagic schooners hunting seals in the immediate vicinity of the island. To have continued counting under these circumstances would have involved the driving off the rookeries of large numbers of female breeding seals to fall the prey of pelagic hunters within sight of land. Assistant Agent Judge, in charge on St. Paul, acting on the advice of Mr. Sims, who was then present, accordingly discontinued any further activity on the rookeries which would have a tendency to disturb the seals and drive them into the water.

RESERVATION OF BACHELORS.

The "branding" or marking of bachelors to be reserved for breeding purposes necessarily was the first work of the season. While this was commenced as soon as possible after my arrival, a scarcity of seals prevented its being accomplished until June 23 on St. Paul and June 30 on St. George. Previous to this time young males could not be obtained on the hauling grounds in sufficient numbers to secure the quota required to be marked.

At St. Paul on June 14, a fair number of bachelors having been found on the Reef, a drive was contemplated for the day following. During the night, however, a brisk rain occurred and the following morning only a few seals were hauled out, the others presumably hav-

ing left because of the rain. From the handful secured, however, we marked 69 2-year-olds and 77 3-year-olds. In addition to these 7 4-year-olds were marked and 10 old brands renewed.

After this date seals were not present in sufficient numbers to justify further efforts to mark bachelors until June 22, when a drive was made from the same rookery and 1,243 seals marked—684 2-years-olds, 538 3-year-olds, and 21 4-year-olds. On the following day, at Zapadni, 116 2-year-olds and 265 3-year-olds were marked, filling the quota of bachelors to be marked for that island.

On St. George the marking of bachelors was begun on June 14 and finished June 30.

The method of marking seals to be reserved for breeding seals at present in vogue on the islands is humane, and is effective so far as land killing is concerned. The seal is dragged from the "pod" by a noose of rope placed over its head by means of a pole, and held down while the hair and fur on its head are clipped off with sheep shears. This operation is painless and the mark made is readily discernible during the killing season. In the fall, when the new hair grows out, the mark made in the spring is obliterated, but measures have been taken by the agents to avoid including in the fall killings for food the bachelors reserved in the spring as breeders.

In 1904, the year in which branding was begun, the agents placed a limit of weight of 6 pounds on all sealskins to be taken in the fall. This was intended to and did absolutely exempt from killing all the 3-year-olds, together with 75 per cent of the 2-year-olds. Of the remaining 25 per cent of this latter class it may be said that there are so many hauling grounds on the island in the fall that are not driven from at all, which these seals frequent, that few even of the smallest marked bachelors are killed.

Furthermore, the 3-year-olds, having passed the age of puberty, are not found on the hauling grounds during the fall, but are hauled among the cows on the rookeries where they can not be driven. This is an additional safeguard against their killing and of itself would disprove any allegation that these marked seals are subsequently killed.

The object of marking male seals for breeders primarily was to provide a reserve of 3-year-olds, rendering them immune from slaughter, to pass into the 4-year-old or prohibited class, and thus be allowed to mature as breeders. At the same time a reserve of 2-year-olds was made, as a cumulative measure of safety, to insure a stock of 3-year-olds the next season, and to operate conjointly with the regulations restricting the killing of seals under 5½ pounds, to accomplish the purpose of allowing a safe number of seals to escape clubbing and mature as breeding bulls.

When, however, this regulation (restricting the killing of young males to seals having skins weighing over 5½ pounds) was enforced, it was found that this operated to release from the killing drives so many 2-year-olds, in addition to those marked and released, that the reservation by marking of any of this class, while undoubtedly wise, was practically a work of supererogation, and that without clipping any of the 2-year-olds enough of that class escaped under the 5½-pound restriction to provide an ample supply of 3-year-olds for the next year.

In the light of experience, this 5½-pound limit has since been reduced to 5 pounds, but with this reduction several thousands of 2-year-olds are annually turned away to appear the next year as 3-year-olds, without considering those marked by clipping their heads, as above stated.

It follows, therefore, that if a few of the marked 2-year-olds are included in the fall killings, even to 25 per cent of that class, which is not the case, there would still be such a number of 2-year-olds in existence that were not marked at all that no difficulty would be experienced in obtaining the supply of 3-year-olds for clipping the following spring, which is the object desired.

A permanent brand could be made only by the use of a hot iron. The mark would also have to be made on top of the head of the seal. As the skull is very thin, it is believed that a severe brand might easily injure the brain and lay the whole practice open to a charge of inhumanity. It never was the intention of the Department to make a permanent brand. When hot irons were used, the agents were instructed that in marking the seals care should be taken not to burn into the skin of the animal. When it was found that hot irons could not be used in wet weather, but that sheep shears were efficacious at any time, the latter were at once used to the exclusion of all other means.

The hot irons can be used at any time that it is desired to experiment with permanently branded seals. A number of those branded in 1904 on the head with hot irons have appeared in the drives of subsequent years with a permanent head brand more or less distinct. These seals, which were either 2 or 3 year olds in 1904, can be recognized on the rookeries when they secure footing there as bulls, and it is probable that through them some interesting facts will be discovered in connection with the ascertainment of the exact age and longevity of breeding bulls. Should pelagic sealing be abolished, experiments should be conducted by means of permanent brands on certain bachelors, to establish definite knowledge as to the age of adult males, their length of service on the breeding grounds, and whether they return to the same locality each year.

It must be remembered that pelagic sealing interferes materially with the operation of any methods adopted on land for the saving of seals for purposes of the future, and renders them in a measure conjectural. When it is considered that all of these reserved bachelors are forced to run the gauntlet of the spear and the shotgun while in the water, a wide margin of loss from mortality at sea must be allowed before any measures involving the saving of seals can be considered efficacious.

Undoubtedly it is obligatory upon the Government to insure enough males for future breeding purposes. But it must not be forgotten, at the same time, that the Government in so doing aids pelagic sealing through every seal allowed to escape on land which could properly be killed there. In my judgment the practice of saving seals for breeding purposes should be continued only so long as it is probable that a settlement of the pelagic sealing question can be accomplished. But, unless this settlement on a satisfactory basis appears imminent, I would recommend the killing on land of every seal that can be killed under existing law.

KILLING OF SEALS.

On St. Paul Island the lessee took during the sealing season of 1906 a total of 10,942 skins, which, added to 1,701 skins taken during the previous fall and spring in food drives or left on hand from the last season, made a total of 12,643 skins in the salt houses on that island at the season's close, July 31, 1906. Of these, 83 small and 23 large skins were outside the limits of weight prescribed by the Department (5 pounds to 8½ pounds) and are held on the island subject to the Department's order.

On St. George the lessee took during the regular sealing season 1,685 skins. In addition to these, 315 eligible skins were taken in previous food drives, making a total of 2,000 skins for that island, which was its quota as determined by the Department. Of these, 55 small skins and 5 large skins were retained as being outside the regular weights.

The lessee shipped at the close of the season in question 12,536 skins from St. Paul and 1,940 from St. George, a total of 14,476 skins, upon which the stipulated payment of $10.22½ for each skin should be made.

FAILURE TO SECURE QUOTA.

It will be noted that, while the quota of 2,000 for St. George was obtained, the lessee failed to secure the St. Paul quota of 13,000, notwithstanding the reduction of the limit of weight in skins from 5½ to 5 pounds. This is probably due to a scarcity of seals; but, owing to the fact that the hauling grounds on Northeast Point and Zapadni rookeries were constantly disturbed during the period of July 16 to 20, due to the raids there by Japanese poachers at a time when the hauling grounds should be most frequented, it is possible that this cause contributed in a measure to the failure to obtain the whole quota.

The total number of seals taken on St. Paul includes 63 skins from female seals killed by Japanese poachers, which they were unable to make away with.

NUMBER OF DRIVES.

During the lessee's season on St. Paul 30 drives were made for skins, including 4 drives in which less than 40 skins were taken in each. In all of the drives the percentage of seals killed varied from a minimum of 43 per cent to a maximum of 69 per cent.

On St. George during the lessee's season 14 drives were made, in which the percentage of seals killed to the whole number driven varied from 71 to 23 per cent.

EFFECT OF NEW REGULATIONS.

The instructions of the Department to me, dated March 9, 1906, lowered the limit of weight on sealskins to be taken to a minimum of 5 pounds and provided, also, that skins were not to be taken weighing more than 8½ pounds. All skins under 5 pounds and over 8½ pounds were not to be delivered to the company, but were to be

held by the agents subject to future instructions from the Department.

These instructions were promulgated upon my arrival and were properly enforced. During the summer 138 small and 28 large skins were so retained by the agents, and are now on the islands awaiting instructions from the Department.

The skin of a 4-year-old male is classed as weighing, on the average, over 8½ pounds. The regulation prohibiting the killing of seals over this weight was designed to give additional immunity to those 4-year-old males which, having passed the 2 and 3 year old stages, were desired to mature into adult bulls. The statistics gathered by the agents during the summer show that this regulation has been effective. In 1905, when there was no prohibition against the shipment of skins over 8½ pounds, but simply an injunction against the killing of 4-year-olds, there were dismissed on the killing field on St. Paul as the result of this regulation 363 4-year-olds during the summer. In the summer of 1906, when the shipment of skins over 8½ pounds was first prohibited, 1,001 4-year-olds were turned away, a difference in favor of 1906 of 638 dismissals in this class. On St. George 244 large dismissals occurred in 1906, as against 191 in 1905.

While, of course, some of the dismissals represent animals which have been driven twice or even more, yet it is known that the percentage of large animals redriven is much less than in the case of the small ones. The number of 4-year-old dismissals, therefore, must represent to a great extent animals of this class actually in being.

The large increase mentioned above in the number of prime males which have passed the stage where they will be liable to clubbing demonstrates the efficiency of the present regulations. These large animals dismissed, in addition to those branded and released, afford the herd a splendid class of young males each year to mature as breeding bulls. These dismissals occurring from year to year, in the future will supply all the adult male life necessary on the rookeries and will never again allow the adult male class to become depleted.

The reduction in 1906 of the limit of weight on small skins from 5½ to 5 pounds was made by the Department because of the fact that the latter weight more nearly represented the dividing line between 1 and 2 year old seals. The young males between 5 and 5½ pounds undoubtedly are 2-year-olds, and the 5½-pound prohibition resulted in arbitrarily turning away from the killing fields several thousands of small 2-year-olds that otherwise would be killed for quota.

This reduction of the limit in weight resulted in the dismissal in 1906 of 3,980 small seals, as against 5,548 in 1905. These 3,980 dismissals in 1906 are shown elsewhere to represent approximately 3,300 animals.

In my opinion, this closer killing among the smaller 2-year-olds is advisable. Present safeguards against too close killing are ample. With their strict enforcement, it is the part of wisdom to allow the lessee to take all remaining young males not covered by prohibitory regulation, as in so doing it reduces to a minimum a class of seals upon which the pelagic sealers prey during the summer and which, if

saved, would offer no further benefit to the herd than that now assured under the regulations governing the killing on land.

STATISTICS OF KILLINGS.

The statistics of killings made on St. Paul Island during the past season show 18,411 animals driven, of which 10,942 were killed. This includes the skins of 63 female seals killed and abandoned by the Japanese raiders on Northeast Point Rookery July 17. These statistics refer only to the period of summer killing and do not include the dismissals from the fall drives for food, in which cows, bachelors, and yearlings are so intermingled as to make a record of dismissals therefrom of no value.

It can be seen from the table, which is herewith submitted as an exhibit, that the killings by the lessee on St. Paul comprises 59 per cent of the animals driven. During the season the killings varied from a maximum of 69 per cent to a minimum of 43 per cent.

The dismissals on St. Paul of branded 2-year-olds numbered 1,012 out of a total of 869 marked on that island, or 16 per cent more than the whole number of these animals marked at the beginning of the season. Of the 880 branded 3-year-olds 693 dismissals occurred, which shows that the dismissals in the 3-year-old class fail by 20 per cent to represent the total number of animals.

These statistics of rejections in the 2 and 3 year old classes are valuable in showing approximately the number of small animals represented by the dismissals from the drives of seals not branded. These dismissals in 1906 aggregated 3,980 on St. Paul and were all practically 2-year-olds too small to render 5-pound skins. So few yearlings were included as to render their consideration of no value.

Having found from the dismissals of branded 2-year-olds that they represented 16 per cent more than the number actually branded, and applying the same rule to the dismissals of 2-year-olds that were not branded, we can see that the 3,980 dismissals in this class represent approximately 3,300 animals. While, of course, this is only an approximation, it is based upon a rule containing so much of the elements of certainty as to give a fair idea of the number of individuals included in the rejected class.

These 3,300 2-year-olds, together with the 800 branded of that class on St. Paul, demonstrate that too close killing does not occur at the present time and insures an ample number of 3-year-olds for 1907.

CLASSIFICATION OF LARGE SEALS REJECTED.

During the summer on St. Paul 1,707 large seals were turned away from the drives, of which, according to the classification made at the time of dismissal, 1,001 were 4-year-olds, 383 were 5-year-olds, 213 were 6-year-olds, 72 were 7-year-olds, and 38 were mature bulls. The large number of 4-year-olds is significant and demonstrates the efficacy of the regulations of the Department prohibiting the killing of 4-year-old males, or, if killed, the shipment of their skins. During the season of 1905 a similar record shows the dismissal of only 363 4-year-olds.

A schedule of these classified dismissals is appended as an exhibit.

ENUMERATION OF SEAL LIFE.

An enumeration of breeding bulls on both islands showed a decrease from the previous year.

On St. Paul, at the height of the season of 1906, 1,244 adult bulls were found on the rookeries. Of these, 1,205 had harems and 39 were idle. In addition to these were found 41 young bulls present on the rookeries, but not holding their positions when approached. These latter have been termed by us "quitters."

On St. George in 1906 204 adult bulls were found, of which 196 had harems and 8 were idle. In addition there were 13 "quitters."

In 1905 1,455 bulls with harems were found on St. Paul, together with 75 idle bulls and 44 young quitters, while on St. George 258 bulls with harems and 22 idle bulls were noted. A comparison of these figures with the counts made in 1906 shows a decrease in the year in bulls on St. Paul of 286, or 18 per cent, and on St. George of 76, or 27 per cent.

Following is given the count of bulls on St. Paul, by rookeries, made in 1906. The column marked "Bulls" does not include those counted as quitters:

Count of bulls, St. Paul, 1906.

Date.	Rookery.	Bulls.	Harems.	Idle.	Quitters.
July 13	Gorbatch Cliffs	8	7	1	------
13	Gorbatch	111	109	2	1
13	Ardiguen	14	14	------	------
13	Reef	206	201	5	13
13	Ketovi	43	40	3	3
13	Amphitheater	7	7	------	1
13	Lukanin	38	36	2	2
13	Little Polovina	12	12	------	1
13	Polovina Cliffs	27	26	1	3
13	Polovina	38	38	2	2
14	Zapadni	169	162	7	3
14	Little Zapadni	81	78	3	------
14	Zapadni Reef	14	14	------	------
14	Tolstoi	112	112	------	------
14	Tolstoi Cliffs	34	32	2	1
14	Lagoon	23	21	2	1
16	Northeast Point	305	296	9	10
	Total	1,244	1,205	39	41

It will be noted that no idle bulls were found on Ardiguen, Amphitheater, Little Polovina, Zapadni Reef, and Tolstoi, while only 9 were found on the entire stretch of Northeast Point Rookery, the largest breeding ground on the entire island, and only 5 were found on Reef Rookery and 7 on Zapadni, the two rookeries next largest in size.

These counts were carefully made by Agent Judge, in company with Mr. Marsh, the naturalist of the Bureau of Fisheries. While I was occupied in the main with photographing the rookeries at the time these counts were made, I participated in several of them, thus furnishing an additional check upon their accuracy. They are not in any sense estimates or approximations based upon superficial observations, but actual enumerations in the strictest sense, embracing every bull present at the height of the season. No locality where bulls were hauled up was overlooked in making these counts.

The detailed counts of harems on St. George, made at the height of the season, follows:

Bulls on St. George, 1906.

Rookery.	Bulls with harems.	Idle bulls.	Quitters.
North	78	3	3
Staraya Artel	26		2
Zapadni	34	3	3
East Cliffs	34	2	3
East Reef	16		2
Little East	8		
Total	196	8	13

These counts, as carefully made by Agents Chichester and Clark, disclose the lack of idle bulls on Staraya Artel, East Reef, and Little East rookeries.

BULLS ON SEA LION ROCK.

A breeding rookery exists on Sea Lion Rock, off St. Paul, but it was not possible to reach this islet in a boat at the time harems were counted on the main island. On a visit, however, on June 24, I found 54 bulls hauled there. This early count, made three weeks before the height of the season, will nevertheless serve to show that this isolated breeding ground contains only a normal number of bulls, and that it is not the abiding place of such a number of adult males as would disprove the statement that the bulls have decreased greatly.

DESERTED HAULING GROUNDS.

Such hauling grounds as Zoltoi Sands, English Bay, and the sand beach west of Hutchinson Hill were devoid of seal life during the summer. No seals of any description were found on them. The same may be said of the beach line adjacent to Halfway Point (or Polovina) Rookery and of those beaches or cliffs in the vicinity of each rookery where in former times young bulls were wont to haul up after having failed to enter the breeding area proper. In every instance in which counts were made on the various rookeries during the summer the agents not only covered the rookery itself, but searched the beach line on all sides of it, to be sure that no stray "polsikatchie" were overlooked. In offering this count of bulls, therefore, I feel perfectly safe in assuring the Department that it represents all bulls present on the islands.

At the present time the hauling grounds of Zoltoi and English Bay have no more significance as abiding places for seals than Black Bluffs. They were absolutely destitute of seal life during the past summer. So far as their investigation is concerned they could not figure in our notes except through the insertion of reiterated statements that there were no seals present. At the close of the season, after the rookery formation has disintegrated, these, as well as other, hauling grounds probably offered a resting place for a few former harem masters that had deserted their rookery stations after a summer's service, and had hauled up there to recuperate. But, as these bulls had previously been counted on the rookeries where they had

held harems, their further enumeration after the season's close would serve only to confuse the counts already made.

In former years, when there was a superabundance of rookery bulls, young bulls were driven to the bachelors' hauling grounds and the beaches adjoining breeding rookeries, because the adult bulls would not allow them to haul among the cows, and the youngsters were not strong enough to force their way in. At the present time, however, owing to the small number of rookery bulls present, the young males can find an entrance into almost any rookery and stand a good chance of picking up a cow or two before the season is over. The necessity for their frequenting these former hauling grounds is now lacking, and the young bulls do not resort to the hauling grounds, for the obvious reason that the breeding rookeries offer more attraction.

CONDITION OF ROOKERY BULLS.

The number and character of the bulls stationed on the breeding rookeries with cows was given early attention.

On my arrival on St. George, June 8, I visited North Rookery on that island for the purpose of making a count of bulls. In going from point to point on the rookery, it was soon apparent that the bulls present displayed a larger proportion of fine young animals between 7 and 8 years of age than I had ever before observed. Only a few old bulls, distinguished by their rusty color, worn teeth, and comparative lack of spirit, could be seen. About 50 per cent of the bulls on that rookery were magnificent young animals just reaching maturity. The others were middle-aged bulls, showing the marks of previous service on the breeding grounds. An old bull was a rarity.

Arriving at St. Paul the next day, and having in mind the unusual number of young bulls present on North Rookery, I made a careful inspection of the bulls on Gorbatch and found the proportion of fully developed young animals there to be even greater than on St. George. On Gorbatch Cliffs, of 7 bulls found 5 were young animals fully grown, but not over 8 years of age. On Gorbatch, of the 77 bulls present 54 were not over 8 years. Only 10 bulls were found with broken-down teeth and other marks indicating old age. Only one was found that, on being aroused, did not show fight. Of the old bulls several chased me some distance, showing that their powers were in nowise diminished.

The other rookeries were then gone over by myself and Agent Judge, and as careful an analysis as possible was made of the bulls present with regard to age. On all rookeries this practical absence of old animals was found, as well as the preponderance of young bulls, although in some instances the proportion of quite young bulls was not so great as that found on Gorbatch and on North Rookery.

This condition shows not so much an unusual influx of young animals as the practical disappearance of the old males, and the further significant fact that there were in existence young males to take their places.

It is probable that during several years recently past the number of accessions of new bulls on the rookeries was small. This failure of new blood created a hiatus in the succession of rookery masters, which was apparent in the rapid decrease of bulls on the rookeries. This gap has been bridged over by the survival of those bulls already on

the mass, to contrast them with those to be taken when the cows should spread out over the sand flat.

On July 16 the compact formation had disappeared and the mass was found to have spread out over twice the former area occupied. The harem formation had also gone. The greater number of cows was found at the rear of the flat adjoining the hill when, before the disintegration, they were pressed close to the beach slope. On the flat area, in and immediately adjoining the mass, were 21 bulls, none of which was idle. A number of bachelors was playing on the rocks awash in front of the beach line. While it was impossible at the time to make a thorough examination as to the number of bachelors in the mass, I could easily distinguish several branded bachelors among the cows by their shaved heads, which were conspicuous. The bulls had lost or had relinquished control of the area and the cows moved as they pleased.

The recurrence of this condition at this place in 1906 justifies the mention of it in my report for 1905. The significance of this situation was mentioned in my last report. It means simply that in the massed area under Hutchinson Hill the normal number of cows for each bull has been exceeded. While some little distance on either side of the mass or at the water's edge there were probably a few idle bulls, they retained their positions which they first preempted and did not move in to the cows under the hill that probably needed them.

I am frank to say that this condition was noted only at Hutchinson Hill. Undoubtedly, all cows were impregnated in that locality as in all others. I believe the bulls at this particular place had greater demands on their vitality than would have occurred in a state of nature, and it was to relieve a condition of this character that the practice of reserving young males from slaughter was commenced in 1904 and continued thereafter. Unless the greater number of these reserved animals are destroyed by the pelagic sealers, whose efforts to take seals in the immediate vicinity of the islands have been redoubled in the last year, an augmentation of breeding bulls will be noted the coming year, which will relieve the condition of a scarcity of bulls.

ALL COWS SERVED.

Particular attention was paid by me during the past summer to determine whether any evidence of failure of impregnation of cows could be found. In no instance was I able to discover that any cow had not received proper service from the bulls. On the contrary, every observation showed that during the season of 1905 all cows in heat were served and bore young in 1906.

It was seen plainly last summer that all females landing on the rookeries during the breeding season were gravid, without an exception noted, and that within twenty-four hours thereafter, generally speaking, they gave birth to their young. These cows, fresh from the water, could be distinguished by their brilliant coats of steel gray. These new arrivals were invariably seen to be gravid or with new-born pups at their sides. The brown cows, those that had been out of the water long enough to have lost the beautiful gray coloration, had pups by their sides. This was an invariable rule during the pupping season and showed conclusively that no lack of virile male life was encountered the previous season.

Careful investigation has failed to disclose any evidence showing that the herd of cows has suffered in any way from the reduction in the number of bulls which has occurred for several years past. It is true that this falling off among bulls has been so marked as to justify its being considered at length and to necessitate the adoption of measures to check this decrease; but it is also true that the breeding bulls have not reached that point of decrease where it would result in a lessened number of pups being born because of a scarcity of bulls, and that, with the present regulations in force, this condition can never happen.

COUNTS OF PUPS.

It has been the yearly practice heretofore to count all the live and dead pups on the St. George rookeries and about one-third of the entire number on the St. Paul rookeries, with a view of establishing a correct idea of the increase or decrease in seal life. This counting has been done as near July 31 as possible.

It was the intention last summer to carry out this plan as usual. The aspect of affairs, however, was suddenly changed by the arrival around St. Paul Island of a large fleet of Japanese sealing schooners, operating so close to the rookeries as to be constantly in sight of land. Because of their immediate presence it was considered unwise to make any disturbance of the rookeries such as would be involved in a count of pups, thereby driving the female seals into the water to be killed by the pelagic sealers. The usual count of pups, therefore, on St. Paul Island was omitted last summer.

Previous to the date of the first raid on the St. Paul rookeries, July 16, the usual daily counts of cows on the various rookeries on that island were made. In this way it was demonstrated that a decrease had occurred in the number of cows on every rookery counted at the height of the season, varying from 10 per cent to 28 per cent. In other words, at the time when the greatest number of cows was present on land on St. Paul in 1906 the counts showed their numbers to be from 10 to 28 per cent less than they were at the same time of the preceding season.

This count of cows present has not been used heretofore as a basis for determining the whole number frequenting the rookeries, for the reason that all cows are never present on land at one time. It has been considered of value merely as establishing the rate of influx during the summer, the determination of the date when the height of the season occurs, and matters of that kind. The entire female population of a rookery can be ascertained only by a count of pups, as every breeding cow is taken to have a pup on shore. This count should be made as soon as possible after the pupping season is over and before the pups have learned to swim. By this method the number of adult females can be ascertained correctly.

While being less exact than an actual count of pups, by the enumeration of cows present on certain rookeries on given dates, and the comparison of these counts with those made on similar dates the year previous, it can be ascertained with reasonable exactness whether or not the herd of cows has decreased or diminished. An accurate idea of the rate of this change, however, can be arrived at only by an enumeration of the pups.

Both the daily counts of cows and the lessened amount of rookery space occupied demonstrate beyond question that a decrease has occurred in the number of cows on the St. Paul rookeries. A conservative estimate would place this decrease in the neighborhood of 20 per cent. The application of this rate of decrease to the number of cows present on this island in 1905 (65,884) would show that on August 1 last there were 52,700 breeding females on St. Paul. This is as close an estimation as it is possible to make without an actual count of pups.

Since August 1, however, the seal herd has suffered from the combined attacks of both the Japanese and Canadian sealing fleets, with a total strength of probably fifty vessels, operating during the months of August and September and a portion of the month of October, the catch of which represents in the neighborhood of 80 per cent of females. The loss from this source was unusually heavy and is not included in the numbers above given. It will be apparent on the islands in the death of pups from starvation, and reports concerning it will not be received until next spring.

On St. George an actual count was made by Agents Chichester and Clark of all pups born on that island last summer, which showed 11,233 live and 224 dead pups. In 1905 12,699 live and 253 dead pups were counted, from which it appears that a decrease on that island has occurred in pups born during the year's interval of 11 per cent.

Considering the increased activity in pelagic sealing during the past summer, an estimate would place the number in the whole Pribilof Islands herd of seals at 180,000 animals of all classes.

DEAD PUPS.

A careful search was made during the summer for dead pups, with a view to determining whether any considerable number of deaths resulted before the effects of pelagic sealing became apparent on the rookeries through the presence of starved pups, and also the cause of death of those found.

It is known, of course, that on the death of a mother seal the pup on shore dies of starvation, as no other female will suckle it. It follows, therefore, that for every adult cow killed at sea there is a corresponding death of a pup on shore.

When pelagic sealing was practiced only by vessels flying the Canadian flag, it was subject to the regulations of the Paris tribunal, which forbid seal killing between May 1 and August 1 of each year. As from ten to fifteen days are required for a pup to die of starvation, the effect of sea killing on the new-born pups was not noticed on land much before August 15 of each year. Prior to this date, the death of pups could not be laid to pelagic sealing and had to be ascribed to some other agency.

Since the advent, however, of the Japanese as a factor in pelagic sealing the date when starved pups should be apparent on the rookeries has changed. The Japanese, as well as all other nations except the United States and Great Britain, are not bound by the Paris award, and they are free to engage in pelagic sealing at any time without regard to the closed season mentioned in the award.

As the Japanese actually commence seal killing in Bering Sea previous to the 1st of July, deaths of pups from starvation occur at almost any time during that month.

It is therefore impossible to say at the present time that any mortality in pups occurring before August 1 must be laid to some other source than pelagic sealing, as starved pups, whose mothers have been killed at sea, should now be found on the islands at any time during the summer.

Inquiries have been made recently of the Department concerning the present effect of *uncinaria* on the seal pups, and it has been strongly intimated by certain persons that thousands of pups die annually from the ravages of this parasite, of which no mention is made in the agents' reports. The fact is that *uncinaria* has not now, nor has had for several years past, any known existence on the islands. This statement is justified by actual and careful examinations during the last three years.

At the time of the investigations of the Jordan commission in 1896–97 numbers of dead pups were discovered prior to August 1, the cause of the death of which the commission finally ascribed to *uncinaria*, an intestinal parasite.

From the thousands of dead pups found the commission made 345 dissections in 1897, between the dates of July 25 and September 5, which resulted in their ascribing the death of 122 to *uncinaria*, 177 to starvation, and 46 to other causes. Large numbers of these dead pups were found on the flat or sandy areas forming portions of the rookeries of Tolstoi and Zapadni, and on those areas the commission determined that *uncinaria* was specially deadly. They inferred that the ovum or embryo of the parasite was deposited in the sands or on the surface of these flat areas through the feces of adult seals, and were picked up on the fur of the mother during the breeding season. They were then nursed in by the pup and, lodging in its intestines, there developed and found its host, causing death from anæmia.

It was claimed by the commission that *uncinaria* was actively an agent of death only on these flat areas. On the rocky beaches the ova were washed down between the interstices of the rocks and disappeared. The effect of this deadly parasite, therefore, must be looked for only on the flat areas.

The conditions which were noted by the commission in 1896–97 were probably abnormal. Since that time there has been observed no unusual number of dead pups on the areas described. The report of the commission states that dead pups were so numerous as to be thrown up in windrows on the sands of English Bay by a storm. Nothing of this character has occurred since.

Whatever may have been the effect from this parasite in former years, the fact stands that for several years past neither of the areas which have been mentioned as being heavily impregnated with *uncinaria* was occupied by seals. This is due to the shrinkage in the numbers of the herd and the consequent contraction of the space occupied. The flat stretch and gullies on Zapadni, known as the "death trap," where so many uncinariated pups were found by the Jordan commission, do not contain seals at the present time. The seals on this, as on other rookeries, resort to the rocky beach. On Tolstoi the sand flat could be traversed almost at will at any time during the past season.

The statement that *uncinaria* has no known existence on the islands at the present time is predicated mainly on the fact that during the past summer Mr. M. C. Marsh, of the Bureau of Fisheries, an expert microscopist, in connection with the agents, made a careful search for dead pups, with a view of determining the causes of mortality. On Zapadni, as before stated, no pups were found on the area indicated by Doctor Jordan as being heavily infected. On Tolstoi a few sparse harems overlapped the sandy area from the beach line, but the number of seals thereon was small, and an observer at any time during the summer could have walked over the sand flat on that rookery. Agent Judge, in company with Mr. Marsh, visited the Tolstoi flat on several occasions with a view of determining the presence of dead pups and of ascertaining the cause of death of any found. On July 3 these gentlemen found a number of cows at the northern end of the area in charge of three bulls. About one-third of these cows were on the flat, while the remainder were on the rocky beach slope. In order to ascertain whether any dead pups were among these cows, they purposely stampeded them and drove nearly all into the water. On the rookery space vacated Mr. Judge counted 140 live pups, but found no dead. About 100 of these pups were on the sand. None of them showed signs of illness and when aroused, if sleeping, evinced abundant spirit.

On July 4 Mr. Marsh obtained a dead pup on the Reef. On autopsy its lungs were found crushed, indicating trampling. On several other occasions dead pups were found by either Mr. Judge, Mr. Marsh, or myself on other rookeries which, upon dissection, showed that they were either stillborn or had died immediately after birth. In these cases either the entire placenta or a portion of the umbilical cord still adhered.

During the summer I took photographs of the gully on Zapadni to show that no seals were present thereon. Further examinations of dead pups during the period of my stay on the islands were not made, solely for the reason that no specimens other than those already mentioned could be found.

In addition, Mr. Marsh examined a number of specimens of feces of adult seals under the microscope and could find no ova of *uncinaria* therein.

After July 16 the presence of so many sealing schooners in sight of the island made any disturbance of the seals on land decidedly unwise, and all counting or examination of the rookeries of such a nature as to drive the seals from land were discontinued. This is specially regretted, as it was contemplated to complete this examination by making a thorough count of all dead pups on the rookeries on or about August 1, and to examine enough of them to determine whether or not *uncinaria* caused the death of any of them.

It can be stated, however, from such examination as could be made this summer, that *uncinaria* has no known existence on the islands, and that, if it is present at all, its effects are so slight as to form an inconsiderable feature in the death rate among pups.

PELAGIC SEALING.

Probably never in the history of the seal islands has the fur-seal herd suffered such a heavy blow as that which resulted from the oper-

ations of the pelagic sealing fleet during the past summer. This fleet consisted approximately of 15 Canadian and 30 Japanese schooners.

The Canadian sealers, by the provisions of the "Paris award," are prohibited from killing seals in Bering Sea at any time with firearms, and are forced to observe a closed season between May 1 and July 31 of each year. They are required also to operate outside of a closed zone with a radius of 60 miles about the Pribilof Islands, inside of which killing of seals is forbidden.

No restrictions of this character, however, govern the Japanese vessels, so that in the open ocean they may take seals at any time and by any means. During the greater portion of the summer this latter fleet surrounded St. Paul Island, killing seals just outside the three-mile territorial limit. In some instances these vessels entered this limit, killing seals in violation of our laws. They even made a determined raid on the breeding rookeries themselves, in which the crews of four vessels apparently acted in concert.

The latter incident may be stated briefly as follows:

On the morning of July 16 a boat's crew of 6 Japanese landed at Northeast Point Rookery, St. Paul Island, armed with a full equipment of clubs and other paraphernalia for seal killing, and were arrested by the agents of this Department and the native guard before the marauders were able to kill any seals.

On the morning of July 17 a boat's crew of 3 Japanese, attempting to land with firearms on the same rookery, were arrested by the native guard and when escaping were fired upon and 2 of the boat's occupants killed and the third wounded.

On the evening of the same day a Japanese schooner, the same one which the morning previous had landed a boat's crew, anchored within 300 yards of the same rookery under cover of a dense fog and, landing its crew by means of small boats, succeeded in killing about 185 breeding seals, all but 2 of which were females in milk, and in securing the skins of about 120. Upon discovery by the agents and the native guard they attempted to escape with their plunder and, refusing to halt and submit to arrest, were fired upon by the native guard and 1 boat captured, containing 6 Japanese, 1 of whom was dead and 1 wounded. The body of another floated in the water and was not recovered by the boats, while the body of another is believed to have been thrown overboard from the schooner upon the return of the boats thereto. In this engagement the agents and the native guards were subjected to rifle fire from the deck of the schooner, without, however, any casualty.

In this latter raid the party landed in 6 boats and consisted of at least 25 men. The native guard numbered about 15 men, only 6 of whom were armed. The agents were not armed. While only 1 of the boats was constrained to return to shore, several others could have been captured had the guard on shore been sufficiently equipped to have taken care of prisoners largely in excess of their own number.

In addition to the raids noted above and while they were in progress, on July 17, an attempt to land under cover of the fog was made at Zapadni Rookery, 14 miles away from Northeast Point, by 3 boats containing probably 18 men from another schooner. Upon discovery the native guard at that point, consisting of only 2 men, at once opened fire and continued firing until the boats retreated and were lost in the fog. On July 16, the day previous, a schooner was observed so close

to Otter Island, which is 8 miles from St. Paul and uninhabited, as to make it very probable that a landing was made there. As this island does not contain a breeding rookery and is frequented at this season by only a few male seals, no practical damage from a raid there could result. On August 8 this island was again visited by a schooner and 3 boats' crews were seen to land there.

While no further attempts were made to land on the island sealing schooners were seen almost daily off St. Paul, sometimes close to shore. On quite a few occasions small boats were seen inside the 3-mile limit. On August 1, 2, and 3, during a dense fog, shotgun firing from small boats was heard continuously close to land. An occasional lifting of the fog would show the presence of both schooners and small boats close to the rookeries. On August 23 seven schooners were visible from the island at one time. From their action it would appear that the schooners took advantage of every foggy day to approach quite close to the island, while on clear days they kept outside the territorial 3-mile limit.

The 12 prisoners captured on St. Paul were taken to Unalaska by the U. S. S. *McCulloch* and, after being left there a week in the custody of the United States deputy marshal while the revenue cutter took coal and returned to the island, were again taken aboard and transported to Kodiak, where they were formally committed before United States Commissioner Kelsey. They were sent thence by the mail steamer *Dora* to Valdez, where they were indicted. Five of the prisoners pleaded guilty of having killed seals. Six others were convicted of an attempt to kill seals, while the remaining prisoner, after a trial in which the jury failed to agree, pleaded guilty to the charge of killing seals, and all were sentenced by United States District Judge Royal A. Gunnison to three months' imprisonment in the United States jail at Valdez. At the expiration of their sentences all the prisoners were deported to Japan.

Notwithstanding the presence of so many Japanese schooners in the close vicinity of the islands, no actual attempts were made by them to raid the rookeries on St. George Island. One schooner, however, after having approached the St. George village landing the previous day, sent several boats ashore on September 5 at Garden Cove. Upon discovery Agent Chichester and a native guard proceeded to the cove and found only 1 man from the schooner ashore. On the approach of Agent Chichester's party this man, a Japanese, hailed the ship, which was close inshore, asking the captain of the schooner to come to the beach. The latter in a small boat manned by 3 sailors came ashore in response to the hail, and all were placed under arrest with the man already ashore. The captain stated to Mr. Chichester that previous to this several of his boats had landed and taken water and ballast from the shore to the schooner.

These prisoners were taken by the revenue cutter *Perry* to Unalaska, and thence by the *Dora* to Valdez. Upon arrival there, and after examination of prisoners and witnesses by the United States attorney, they were released for the reason that that portion of the Revised Statutes which they violated (section 1959), which forbids landing on the islands without a permit, unfortunately carried no penalty other than summary removal from the islands.

It is the fixed belief of both Agents Chichester and Clark, who were present on the island and supervised the capture of these pris-

oners, that had the vessel been allowed to remain undisturbed and her crew permitted to land on the island at will a serious raid on the rookeries would have resulted. The boats from this schooner landed within 2 miles of East Rookery and 3 miles of Zapadni Rookery, both of which contained large numbers of breeding seals.

Aside from the determined raids made upon the breeding rookeries themselves, the continued killing of seals around the islands during the summer within a few miles of where they breed caused an immense loss of seal life. Falling, as it does, on a herd already depleted to a minimum, there is little question that another year or two of such killing will result in the commercial extermination of the species.

Incomplete returns from Victoria show that the spring catch of that fleet was 1,439 skins. I have not at hand at the present time any official statement showing what was the Canadian summer catch in Bering Sea. Their catch, however, can be best judged by the report of the London trade sales this winter, which show that 20,216 Pribilof sealskins, known to the trade as "Northwest coast" skins, were offered for sale by the Canadian sealing company. A rough estimate made by the consular agent at Hakodate places the Japanese summer catch from the Pribilof herd at 7,000. This latter estimate undoubtedly is too low, but, accepting these figures as complete, it would show the pelagic catch from the Pribilof herd for 1906 to have been 27,216, as opposed to a land catch by the lessee of only 14,476. This means that twice as many sealskins were taken in the water by pelagic hunters as were secured on land by the lessee under Government supervision. It indicates also that the "monopoly" enjoyed by the lessee of the sealing right on the Pribilofs in effect is merely nominal.

In contrasting the land and sea catches it must be remembered that, while the former represents the maximum of animals slain to secure the skins in the catch, the take of skins in the sea indicates on a fair average only one-fourth of the animals slain to secure it. Indeed, it was stated to Mr. Judge last summer by a Japanese castaway that 7 out of every 10 seals shot in the water sink before the boats reach them.

In a day's hunting a boat's crew probably fires on 10 seals for every one brought into the boat. Some of these are killed and immediately sink. Others are wounded, some superficially, others fatally. As the head of the seal, with its very thin skull, is usually the only portion of the animal exposed when the hunter fires, and as all sealers use heavy buckshot, it is more than probable that if the animal is shot and escapes it has received a dangerous or a fatal wound.

An instance in support of this came under my notice this summer. At Northeast Point on the morning of July 17 the watchmen heard almost incessant shotgun firing in the fog very close to shore. After this had continued for some minutes 1 of the boats landed and was captured. It contained the body of only 1 seal. Had all of the shots fired resulted in the capture of a seal the boat would have been swamped.

Aside from the great loss in seals which are shot and not recoverable, it must be remembered that nearly 80 per cent of all seals taken in Bering Sea are pregnant females having nursing pups ashore, which die of starvation after the loss of the mother. The death of

each pregnant female, therefore, means the loss of 3 lives to the herd, in addition to the great waste incident to the nonrecovery of seals shot in the water, which has just been referred to.

In view of the facts just mentioned, it may fairly be believed that the catch of 27,216 skins by the pelagic fleets in 1907 represents a loss to the herd of upward of 75,000 animals. They show that to secure 27,000 skins on land only that number of animals need be killed, and they surplus males which can be spared without injury, while to secure 27,000 skins in the water practically 75,000 animals must be slaughtered. Stronger proof of the destructiveness of this practice and of the certainty and rapidity with which it reduces the herd can not be given.

The unexpected loss of so many breeding seals from the herd this summer shows plainly the necessity for speedy action on the part of this Government if it would preserve from extinction this valuable and interesting species. Since 1870 this Government has received as revenue from the royalty on sealskins the sum of $9,022,070.42. Under the present contract with the North American Commercial Company it receives $10.22½ for each sealskin taken and shipped from the islands. With pelagic sealing abolished, it is estimated that in ten years thereafter the Government will receive in royalty the sum of at least $250,000 per annum, which will be increased as the seals become more plentiful, with a strong probability that even during the period mentioned the income will be greater than stated. Even with the herd in its present depleted condition, the Government will receive for the 14,476 skins taken in 1906 the sum of $148,017.10.

Aside from the commercial aspect of the situation, there is the higher one of preserving from extinction this most interesting species of wild animals. From a humane standpoint, if from no other, this Government should exert every effort to save to the world the fur seal, which otherwise will be numbered soon among the buffalo and other practically extinct species.

The preservation and increase of the seal herd can be accomplished only by the stoppage of pelagic sealing. The most drastic measures to preserve and increase the seals will be ineffective so long as this practice continues. In view of the wanton waste of life which attends the hunting in the open sea, it would seem that this Government may at any time properly request the cooperation of other nations with the purpose of obtaining a cessation of the practice.

As the result of overtures made by this Government to the Government of Great Britain a tribunal of arbitration was convened at Paris in 1892, which made an award commonly known as the Paris award. This award embodied regulations which prescribed a zone of 60 miles around the Pribilof Islands in which pelagic sealing was prohibited altogether, and a closed season from May 1 to July 31 of each year, during which seal hunting in the sea was to be discontinued by both nations. The award also forbids the use of firearms in Bering Sea and provides for a reopening of the question by mutual consent at the end of five years.

Experience has shown that the 60-mile zone around the islands is wholly ineffective in protecting the breeding females from slaughter as they pass to and from the islands to their feeding grounds, as the females have been ascertained to go at least 150 miles to the south-

ward of the islands to feed. While these regulations undoubted have had the effect of checking in a measure the rate of destructi they have been wholly ineffective in preventing the steady decre in the numbers of the herd, which is the cause of this Governmen anxiety in the matter. An effort to reopen the question before t high joint commission in 1897 was frustrated by the intervention the Alaska boundary dispute.

At the time this award was made the United States and Gre Britain were the only nations whose vessels engaged in pelagic se ing. Since that time the United States, by act of Congress, has f bidden her citizens to hunt seals in the water. Since that time, ho ever, the subjects of Japan, aided by a substantial subsidy from th Government, have begun killing seals at sea and have followed up with increasing vigor until now their fleet numbers 30 vesse twice as many as now compose the Canadian fleet. These Japane hunters, being unhampered by any regulation of their methods killing seals in the water, absolutely nullify any beneficial effect t Paris award regulations may have had prior to the advent of t Japanese as a factor in pelagic sealing.

It can be seen, therefore, that, notwithstanding the efforts of t Government to obtain some satisfactory settlement of this questi along diplomatic lines, no agreement has been reached and the duction of the seal herd has continued steadily. It must be reme bered also that the Paris award, inadequate as it has been shown be, binds only this country and Great Britain and is ineffective regards Japan or any other nation.

Considering the steady decrease in the seal herd, which has curred each year since the commencement of pelagic sealing, togeth with the futility of the measures provided by the Paris award a the unusual and deadly menace involved in the operations of t Japanese pelagic fleet during the past summer, I urgently recomme that strong efforts be made to secure the abandonment of the practi of pelagic sealing through international agreement, which at le shall bind all nations having seaports on the Pacific.

ROOKERY NUMBERS.

The numbers painted in 1897 on rocks by the surveying party the United States Coast and Geodetic Survey, to mark the appro mate boundaries of the various rookeries on the islands, have b renewed from year to year by the agents and are perfectly preser at the present time. It is a fact, however, owing to the contracti of the area occupied by a fast diminishing herd, that t serve little or no purpose in enumerations of seal lif time. On rookery stretches lying under abrupt cli time little expansion was possible, the numbers the breeding seals at the present time, provided by seals at all. But on the flat areas, which i place to the vast herd that thronged the roo been so great that the painted numbers seals. This is specially true of Zapadni, in particular, these nu standing near the seals t culty in locating the num

the rookery space occupied. Notwithstanding this, these numbers have been carefully preserved and will serve, if for no other purpose, to show approximately the limits of the breeding rookeries at the time when the numbers were first located.

The same may be said also of certain arbitrary marks and crosses painted on rocks by Mr. C. H. Townsend when making investigations on the islands under the United States Fish Commission. These crosses and other marks are carefully renewed with white paint each spring.

There are certain rookeries on both islands the harems on which have to be counted from the cliffs above. As only portions of the rookery can be viewed at one time, it was formerly difficult in moving from place to place on the cliff to determine the point where the previous count had ended and where the next count should begin. This has been simplified by dividing the rookery space into sections by means of broad lines painted in white on the rocks. By counting the seals in each section separately no confusion is encountered, and the count thereby is made accurate. Tolstoi and Tolstoi Cliffs rookeries on St. Paul and East Rookery on St. George have been so treated.

PHOTOGRAPHS OF ROOKERIES.

In 1906, as in 1905, the rookeries were photographed [a] by myself on St. Paul and by Mr. Chichester on St. George. To make these photographs of the most value they were taken wherever possible from the same stations as those taken by Townsend and Miller in 1895, thereby allowing a comparison to be made of the aspect of the rookeries at that time with that of the present day, after a lapse of eleven years.

In view of my early departure from the islands last summer, as a result of the Japanese raid, Mr. Judge completed the photographing of St. Paul by making exposures on Reef, Gorbatch, Ardiguen, and Zapadni.

The seal rookeries are now so much smaller that photographs taken from the stations used by Messrs. Townsend and Miller in 1895 give an inadequate idea of the present breeding grounds. Mr. Chichester on St. George has established a number of new stations, from which to better show the condition of the rookeries to-day. On St. Paul also, wherever possible, new stations were selected for the same reason.

NATIVE CENSUS.

The censuses taken on both islands June 30, 1906, show 168 native residents on St. Paul and 91 on St. George, or a total of 259 for both islands. This represents a net increase during the year of 4 individuals for St. Paul and 2 for St. George. On St. Paul there were 10 births and 6 deaths and on St. George there were 6 births, 2 deaths, and 2 removals to the Jesse Lee Home, at Unalaska. The detailed censuses are herewith submitted as exhibits.

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[a] Photographs not printed.

NATIVES' EARNINGS.

On St. Paul there was divided among the native sealers at the close of the season of 1906, for taking 12,536 sealskins, at 75 cents each, the sum of $9,402. On St. George, for taking 1,940 sealskins in 1906, the natives received $1,455, and for taking 456 blue-fox skins, at $5 each, and 11 white-fox skins, at $1 each, the sum of $2,291. No fox skins were taken on St. Paul. These amounts were available for natives' support during the past winter and were disbursable by means of orders drawn on the company by the Government agents for necessary supplies to the native families.

GOVERNMENT APPROPRIATION.

In addition to the amounts already detailed as available for natives' support from their earnings in taking skins, the Government appropriation of $19,500 for the fiscal year 1907 was apportioned to the two islands, at the rate of $8,500 for St. Paul and $5,300 for St. George. The remainder of the appropriation, namely, $5,700, was reserved for the purchase of 285 tons of coal, to be delivered in June, 1907.

PERFORMANCE OF CONTRACT BY LESSEE.

During the past year the lessee satisfactorily performed the obligations of its contract with the Government. Schools with competent teachers were maintained on both islands for the native children during eight months of the year. A physician and medical supplies were also furnished on each island during the entire year without cost to the natives. Such widows and orphans and aged and infirm persons as were unable to provide for themselves were furnished with the necessaries of life in sufficient quantity by the lessee, which also provided dwellings for the entire native population and kept the same in repair, and furnished such quantity of salt salmon, salt, and barrels for preserving meat as were required by the natives. It also delivered the 80 tons of coal called for by the contract.

FOXES.

The fox catch on St. George during the past winter, amounting to 456 blues and 11 whites, was a gratifying increase over the number taken the previous winter, namely, 258 blues and 10 whites. During the past several years great attention has been paid by the Government agents on St. George to the feeding of foxes, every effort being made to furnish them with as large a supply of food as possible. This undoubtedly has had the effect of increasing the number of animals in the herd and, as well, the number in the catch. A report by Agent Chichester, who had charge of St. George last winter, may be found appended as an exhibit, in which the condition of the fox herd on that island is gone into in detail.

On St. Paul an increased number of foxes was noted on the island during the past summer and the winter previous. It would seem from this that the foxes on St. Paul are gradually recovering from the effects of the disastrous epidemic which occurred several years

ago, in which almost all the foxes on St. Paul and a large number on St. George perished. It is possible that during the winter of 1906-7 a small number of foxes will be taken on St. Paul by Agent Judge.

DAILY FIELD NOTES.

During the past summer Agent Judge and myself kept, as usual, a daily record of our observations of seal life. In the belief that this may be of some value in arriving at a correct understanding of the present conditions on St. Paul Island, a transcript of such is subjoined to this report. It must be remembered that these notes were not made for the purpose of publication, but for our own use, and were hastily jotted down without amplification.[a]

I desire to express my great appreciation of the services of the natives in guarding the rookeries and in repelling raids on the same during the past summer. None could have been more faithful or determined in performing that service. The agents of the lessee also rendered assistance by furnishing their teams gratis in transporting the guard from place to place, and by providing medical attendance, houses, and provisions for the prisoners during their stay on the islands.

Respectfully, W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

The SECRETARY OF COMMERCE AND LABOR.

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[a] The daily field notes were submitted as Exhibit 1 to the report, but were omitted in printing.

Exhibit 2.—*Annual statement of fur seals killed on St. Paul Island, Alaska, during the year ended July 31, 1906.*

Rookery.	Date.	Number of seals killed for natives' food.					Number of seals killed by lessees for skins.						Aggregate.		
		Large young seals.	Total.	Skins accepted by lessees.	Skins rejected.		Accepted (prime).	Rejected.				Total.	Skins accepted.	Skins rejected.	Total number of seals killed.
					Under-size.	Cut.		Under-size.	Cut.	Over-size.	For other reasons (bitten).				
	1905.														
On hand in salt house	Aug. 16	281	281	281									281		281
Reef	Oct. 20	152	152	151		1							151	1	152
Do	Oct. 23	155	155	153		2							153	2	155
Reef and Tolstoi	Nov. 2	175	175	171		4							171	4	175
Northeast Point	Nov. 7	378	378	378									378		378
Reef	Nov. 16	115	115	112	1	2							112	3	115
Do	Nov. 29	195	195	186		9							186	9	195
Watchmen Northeast Point	Nov. 14	6	6	6									6		6
	1906.														
Sea Lion Rock	May 13	28	28	28									28		28
Do	May 25	154	154	149		5							149	5	154
Watchmen Northeast Point	May 31	8	8	8									8		8
Zapadni	June 4	54	54	54									54		54
Do	June 23						175	1		7		183	175	8	183
Northeast Point	June 25						466	1		1		468	466	2	468
Reef	June 27						452	2	3			457	452	5	457
Zapadni	June 28						475		4	9		488	475	13	488
Polovina	June 29						161	5	1			167	161	6	167
Northeast Point	June 30						549	17				566	549	17	566
Tolstoi	July 2						113	1				114	113	1	114
Reef	do						464	1	3	2		470	464	6	470
Zapadni	July 3						14					14	14		14
Polovina	July 5						36					36	36		36
Northeast Point	July 6						819	23	5	1		848	819	29	848
Reef and Gorbatch	July 7						406	2	4			412	406	6	412
Zapadni	July 9						712		3	1	2	719	712	7	719
Northeast Point	July 11						668				1	670	668	2	670
Reef and Gorbatch	July 13						822	5	9			836	822	14	836
Zapadni	July 14						462	1	1			464	462	2	464
Polovina	July 15						27					27	27		27
Northeast Point	July 16						247		1			248	247	1	248
Tolstoi	July 17						112	1				113	112	1	113
Reef	July 19						387	3	2			392	387	5	392
Zapadni	July 20						301					302	301	1	302
Northeast Point	July 22						395					395	395		395

Northeast Point, killed by Japanese raiders	do						63					63	63		63
Reef and Gorbatch	July 24						475	6		2		483	475	8	483
Zapadni	July 25						293	3				296	293	3	296
Northeast Point	July 27						564	1				565	564	1	565
Reef and Gorbatch	July 28						421	4				425	421	4	425
Tolstol	do						118	4				122	118	4	122
Zapadni	July 30						316					316	316		316
Northeast Point	July 31						246					246	246		246
Polovina	do						37					37	37		37
Total		1,701	1,701	1,677	1	23	10,796	83	37	23	3	10,942	12,473	170	12,643

NOTE.—The skins marked "rejected" because over or under size will be held on the island subject to the Department's order. Those marked "rejected" because "cut" or "bitten" form part of the quota the same as if marked "accepted." The total number to be shipped is 12,536.—JAMES JUDGE, *Assistant Agent Seal Islands, in charge St. Paul Island.*

EXHIBIT 3.—*Statistics of killings, St. Paul, season of 1906.*

Rookery.	Date.	Killed.	Number dismissed.						Total driven.	Per cent killed.
			Not branded.		New brands.		1904 brands.			
			Small.	Large.	Two years.	Three years.	Four years.	Five years.		
	1906.									
Zapadni	June 23	183	37	61	1	26	2	4	314	58
Northeast Point	June 25	468	86	176	1	4	16	15	766	61
Reef	June 27	457	72	179	185	85	3	3	984	46
Zapadni	June 28	488	122	136	110	58	.....	4	918	53
Halfway Point	June 29	167	9	51	11	9	2	.....	249	67
Northeast Point	June 30	566	97	163	20	15	14	8	883	63
Tolstoi	July 2	114	34	42	4	1	1	.....	196	58
Reef	....do...	471	107	70	42	33	.....	3	726	64
Zapadni	July 3	14	5	4	3	1	.....	.....	27	51
Polovina	July 5	36	1	30	2	1	.....	5	75	48
Northeast Point	July 6	847	256	77	32	15	2	1	1,230	68
Reef	July 7	412	135	31	39	22	3	2	644	63
Zapadni	July 9	719	184	50	52	30	1	2	1,038	69
Northeast Point	July 11	670	243	34	32	14	.....	2	995	67
Reef and Gorbatch	July 13	836	212	37	85	59	4	2	1,235	67
Zapadni	July 14	464	150	31	54	28	1	.....	728	63
Halfway Point	July 15	27	5	5	3	2	.....	.....	42	64
Northeast Point	July 16	248	110	8	4	12	.....	.....	382	65
Tolstoi	July 17	113	19	32	7	11	1	3	186	60
Reef	July 19	392	163	45	50	36	.....	.....	686	57
Zapadni	July 20	302	67	36	25	22	1	.....	453	66
Northeast Point	July 22	395	203	18	11	20	5	4	656	60
Northeast Point (killed by Japanese July 17, 1904)	....do...	63	.....	.....	.....	.....	.....	.....	.....	.....
Reef and Gorbatch	July 24	483	456	52	51	44	9	6	1,101	43
Zapadni	July 25	296	248	61	46	29	3	.....	683	43
Northeast Point	July 27	565	347	111	42	20	6	4	1,095	51
Reef and Gorbatch	July 28	425	278	37	42	45	2	.....	829	51
Tolstoi	....do...	122	46	17	17	12	.....	.....	214	57
Zapadni	July 30	316	189	42	34	22	.....	1	604	52
Northeast Point	July 31	246	89	52	5	9	.....	2	403	61
Polovina	....do...	37	10	19	2	8	.....	.....	76	48
Total	.....	10,942	3,980	1,707	1,012	693	76	71	18,411	59

EXHIBIT 4.—*Classification of large seals dismissed, St. Paul, season of 1906.*

Rookery.	Date.	Four years.	Five years.	Six years.	Seven years.	Eight and over.	Total.
	1906.						
Zapadni	June 23	20	17	21	3	.....	61
Northeast Point	June 25	87	43	32	14	.....	176
Reef	June 27	115	41	22	.....	1	179
Zapadni	June 28	98	24	10	4	.....	136
Halfway Point	June 29	27	17	7	.....	.....	51
Northeast Point	June 30	100	30	22	11	.....	163
Tolstoi	July 2	21	8	3	10	.....	42
Reef	....do...	42	20	3	5	.....	70
Zapadni	July 3	.....	.....	1	3	.....	4
Polovina	July 5	12	11	6	1	.....	30
Northeast Point	July 6	52	8	12	5	.....	77
Reef	July 7	23	4	4	.....	.....	31
Zapadni	July 9	36	6	7	1	.....	50
Northeast Point	July 11	24	7	3	.....	.....	34
Reef	July 13	28	1	5	2	1	37
Zapadni	July 14	26	4	1	.....	.....	31
Halfway Point	July 15	3	1	1	.....	.....	5
Northeast Point	July 16	6	1	1	.....	.....	8
Tolstoi	July 17	20	6	6	.....	.....	32
Reef	July 19	24	8	6	.....	7	45
Zapadni	July 20	23	11	2	.....	.....	36
Northeast Point	July 22	16	2	.....	.....	.....	18
Reef and Gorbatch	July 24	31	15	.....	1	5	52
Zapadni	July 25	37	20	4	.....	.....	61
Northeast Point	July 27	46	20	22	12	11	111
Reef and Gorbatch	July 28	18	13	4	.....	2	37
Tolstoi	....do...	8	5	1	.....	3	17
Zapadni	July 30	25	13	4	.....	.....	42
Northeast Point	July 31	27	14	3	.....	8	52
Polovina	....do...	6	13	.....	.....	.....	19
Total	.....	1,001	383	213	72	38	1,707

EXHIBIT 5.—*Counts of breeding rookeries, St. Paul, season of 1906.*

AMPHITHEATER OF KETOVI.

Date.	Bulls.	Quitters.	Harems.	Cows.	Date.	Bulls.	Quitters.	Harems.	Cows.
May 14	1				June 23	6	3	2	2
23	2				25	7	1	5	6
June 6	5				26	7	1	5	9
7	5				27	8		7	16
9	6				30	8		7	37
11	6	1			July 2	8	1	7	58
12	6	1			4	8		8	104
13	7				6	9	1	9	145
15	4	3			8	9		9	173
17	5	3			11	9	1	9	201
19	5	2			13	7	1	7	176
21	6	2	1	1	23	10		10	104

LUKANIN.

Date.	Bulls.	Quitters.	Harems.	Cows.	Date.	Bulls.	Quitters.	Harems.	Cows.
May 8	1				June 21	37	2	9	13
14	5				23	34	5	14	31
23	14				25	36	3	13	58
June 6	32				26	35	1	15	88
7	32				27	36	3	18	111
9	33	2			30	35	4	21	226
11	35	1			July 2	36	2	26	273
12	35	1	1	1	4	37	2	31	487
13	33	2			6	36	2	32	674
15	33	2	1	1	8	36	2	32	849
17	35	2	3	3	11	38		35	921
19	37	2	5	6	13	38	2	36	855

KETOVI EXCLUSIVE OF AMPHITHEATER.

Date.	Bulls.	Quitters.	Harems.	Cows.	Date.	Bulls.	Quitters.	Harems.	Cows.
May 23	4				June 25	33	3	21	37
June 6	26				26	35	2	27	49
7	27				27	36	1	28	85
9	24	9			30	37	1	30	180
11	24	9			July 2	35	7	31	281
12	24	9			4	37	4	27	434
13	25	8			6	39	6	34	651
15	22	12			8	41	5	35	846
17	26	8			11	45	4	40	1,028
19	28	3	1	1	13	43	3	40	950
21	29	7	8	8	23	46	2	44	765
23	27	9	12	16					

LAGOON.

Date.	Bulls.	Quitters.	Harems.	Cows.	Date.	Bulls.	Quitters.	Harems.	Cows.
June 11	15	4			July 3	19	4	13	177
14	15	3			9	23		20	365
17	18	2			12	23	1	23	450
27	19	2	11	42	14	22	1	21	440

TOLSTOI.

Date.	Bulls.	Quitters.	Harems.	Cows.	Date.	Bulls.	Quitters.	Harems.	Cows.
May 2	2				June 14	90		6	6
4	1				17	99	1	13	18
20	9				July 12	105		104	
June 11	85	1			14	112		112	

TOLSTOI CLIFFS.

Date.	Bulls.	Quitters.	Harems.	Cows.	Date.	Bulls.	Quitters.	Harems.	Cows.
June 11	23	3			July 3	32	2	26	384
14	24	4			12	33	2	32	812
17	26	2	2	2	14	34	1	32	788
27	32	1	23	105					

EXHIBIT 5.—*Counts of breeding rookeries, St. Paul, season of 1906*—Continued.

LITTLE ZAPADNI.

Date.	Bulls.	Quitters.	Harems.	Cows.	Date.	Bulls.	Quitters.	Harems.	Cows.
May 2	2				June 10	59	5		
5	4				21	62	5	18	35
8	4				28	64	3	36	
15	7				July 14	81		78	
20	25								

ZAPADNI.

May 4	2				June 4			1	1
5	5				10	103	5	2	2
8	10				23	127	2	44	
15	15				July 14	169	3	162	
20	30								

ZAPADNI REEF.

May 20	6				July 1	14	1	10	67
June 10	11	3			9	13		12	225
21	14	1	3	3	14	14		14	254

GORBATCH CLIFFS.

June 9	7				June 27	8		6	15
13	7	1	1	1	July 1	6	1	8	47
16	7	1	1	1	4	7		7	90
17	7	1	1	1	6	7	1	8	97
21	7				13	8		7	145
22	6	1	1	1	23	7		7	
26	7		4	8					

GORBATCH.

May 6	1				June 13	80	6	5	5
8	4				16	81	7	6	6
17	27				17	85	3	6	6
20	35				21	87	4	27	41
June 5	80	6			22	90	3	35	
8	81	2			July 13	111	1	109	
9	71	8							

REEF.

May 2	2				June 8	132		1	1
6	1				9	92	[a] 1		
8	7				15	179	13	5	5
13	26				22	190	11	53	
20	48	5			July 13	206	13	201	
June 6	130								

POLOVINA.

May 31	39				June 20	38	6	10	20
June 11	38	5	1	1	29	39	4	21	
15	34	5	3	3	July 13	40	2	38	

POLOVINA CLIFFS.

June 11	17	5			July 5	23		21	251
15	16	8			13	27	3	26	655
28	20	4	15	45					

[a] From Reef Point to Mass at No. 18.

EXHIBIT 5.—*Counts of breeding rookeries, St. Paul, season of 1906*—Continued.

LITTLE POLOVINA.

Date.	Bulls.	Quitters.	Harems.	Cows.	Date.	Bulls.	Quitters.	Harems.	Cows.
May 31	5				June 28	10		5	60
June 11	8				July 5	10		9	246
15	6	2	1	1	13	12	1	12	441

NORTHEAST POINT.

May 5	1				June 25	249	17	127	
20	82				July 16	305	10	296	
31	173								

NORTHEAST POINT, EAST SIDE.

June 25	13	1	3	3	July 10	15	1	15	217
29	13	2	9	15	16	16	1	16	
July 5	14	2	13	92					

SEA LION ROCK.

May 5	3	7			May 13	5			
6	19				June 21	54		15	

NORTHEAST POINT, WEST SIDE.

June 25	15	2	9	9	July 10	21	1	21	680
29	18	1	17	87	16	21		21	
July 5	20	1	18	339					

ARDIGUEN.

May 8	1				June 21	11	2	4	6
20	2				22	11	2	5	10
June 6	10				26	13		8	41
8	11				27	13		8	43
9	10				July 1	12		9	105
13	11	2			4	14		12	180
15	11				6	14		12	231
16	11	1	1	1	13	14		14	336
17	12				23	14		14	

EXHIBIT 6.—*Counts of harems, St. Paul, 1906.*

Date.	Rookery.	Bulls.	Harems.	Idle.	Quitters.
July 13	Gorbatch Cliffs	8	7	1	
13	Gorbatch	111	109	2	1
13	Ardiguen	14	14		
13	Reef	206	201	5	13
13	Ketovi	43	40	3	3
13	Amphitheater	7	7		1
13	Lukanin	38	36	2	2
13	Little Polovina	12	12		1
13	Polovina Cliffs	27	26	1	3
13	Polovina	40	38	2	2
14	Zapadni	169	162	7	3
14	Little Zapadni	81	78	3	
14	Zapadni Reef	14	14		
14	Tolstoi	112	112		
14	Tolstoi Cliffs	34	32	2	1
14	Lagoon	23	21	2	1
16	Northeast Point	305	296	9	10
	Total	1,244	1,205	39	41

EXHIBIT 7.

ST. PAUL ISLAND, ALASKA, *July 27, 1906.*

DEAR MR. JUDGE: In view of the fact that several schooners are hanging off the islands, I suggest that the count of dead pups and other counts required by the regulations be made without disturbing the rookeries any more than is necessary. Under no circumstances do I think the cows should be driven off the rookeries.

Respectfully, EDWIN W. SIMS.

EXHIBIT 8.—*Census of dead pup seals, St. Paul Island, Alaska, 1905.*

Date of count.	Rookery.	Dead pups.	Remarks.
Oct. 17	Ketovi and Lukanin	143	
17	Lagoon	15	
19	Polovina	65	
19	Polovina Cliffs	45	
19	Little Polovina	8	
24	Gorbatch	153	
24	Ardiguen	13	
25	The Reef	407	Rainy.
25	Tolstoi	365	Light rain.
26	Zapadni	200	
26	Little Zapadni	147	
26	Zapadni Reef	14	
27	Northeast Point	473	
	Total	2,048	

Respectfully, EZRA W. CLARK,
Assistant Agent, in Charge.

EXHIBIT 9.—*Native census, St. Paul Island, Alaska, year ended June 30, 1906.*

No. of family.	Name.	Family relation.	Age.	Birthplace.	Date of birth.
1	Bogodanof, Nicoli	Husband	34	St. George	
	Bogodanof, Uleta	Wife	39	do	
	Bogodanof, Agrifina	Niece	9	St. Paul	June 30, 1897
2	Burdukofsky, Apollen	Father	53	Unalaska	June 5, 1853
	Burdukofsky, Peter	Son	27	St. Paul	Nov. 22, 1897
3	Buterin, Karp	Husband	52	do	
	Buterin, Parascovia	Wife	50	Unalaska	
	Buterin, Constantine	Son	20	St. Paul	June 2, 1886
	Mazeckin, Wassilisai	Adopted daughter.	11	do	Feb. 10, 1895
4	Fratis, John	Husband	20	do	June 14, 1886
	Fratis, Sandulia	Wife	16	do	Nov. 15, 1890
	Fratis, Gabriel	Son	3 mos	do	Apr. 7, 1906
5	Galaktionef, Alexander	Husband	34	Atka	
	Galaktionef, Lukeria	Wife	29	St. Paul	Jan. 1, 1877
	Galaktionef, Mary	Daughter	4	do	May 29, 1902
	Galaktionef, Matrona	do	3	do	Oct. 17, 1903
	Hanson, Anna	Step-daughter.	6	do	Aug. 14, 1900
6	Gromof, Nicoli	Husband	38	Attu	
	Gromof, Oulianna	Wife	36	St. Paul	
	Stepetin, Pavla	Adopted daughter.	14	do	June 28, 1892
	Volkof, Tecan	Orphan	13	do	June 12, 1893
	Stepetin, Elary, jr	Adopted son.	5	do	July 24, 1901
7	Kochutin, Jacob	Husband	54	do	
	Kochutin, Alexandra	Wife	44	Unalaska	
	Kochutin, Larion	Son	13	St. Paul	Mar. 8, 1893
	Mandrigan, Innokenty	Orphan	14	do	
	Mandrigan, Nekifer	do	10	do	Feb. 18, 1896
8	Koshevnikof, Paul	Husband	22	do	
	Koshevnikof, Mary	Wife	32	St. George	Apr. 17, 1874
	Koshevnikof, Constantine	Son	1	St. Paul	Feb. 4, 1905
9	Kochutin, John	Husband	35	do	
	Kochutin, Claudia	Wife	26	St. George	
	Kochutin, Nikanor	Son	5	St. Paul	Aug. 11, 1901
	Kochutin, Erena	Daughter	3	do	May 14, 1903
	Vickilof, Alexander	Stepson	8	do	Sept. 2, 1897

EXHIBIT 9.—*Native census, St. Paul Island, Alaska, year ended June 30, 1906*—Con.

No. of family.	Name.	Family relation.	Age.	Birthplace.	Date of birth.
10	Kochutin, Trefan	Widower	20	St. Paul	Oct. 17, 1885
11	Kochergin, George	Husband	28	do	Oct. 12, 1877
	Kochergin, Agafia	Wife	26	do	
	Emanof, Mary	Cousin	15	do	June 14, 1891
	Tetof, Peter	Adopted son.	4	do	Mar. 24, 1902
12	Kozlof, Michael	Son	20	do	Sept. 24, 1885
	Kozlof, Parascovia	Mother	47	Unalaska	
	Serebrinikof, Ripsimia	Cousin	13	St. Paul	Oct. 10, 1892
13	Kozlof, Nicoli	Husband	18	do	Mar. 22, 1888
	Kozlof, Alexandra	Wife	25	do	Jan. 20, 1881
14	Krukof, John	Husband	26	do	Dec. 28, 1880
	Krukof, Uleta	Wife	22	do	July 25, 1884
	Krukof, Alexandra	Daughter	Inf.	do	May 27, 1906
	Diakanof, Andrew	Stepson	12	do	
15	Krukof, Nicoli	Husband	55	Sitka	
	Krukof, Catherine	Wife	45	Kamschatka	
	Krukof, Eustinia	Daughter	16	St. Paul	Oct. 15, 1889
	Emanof, Alexia	Nephew	8	do	
16	Krukof, Metrofan	Husband	23	do	
	Krukof, Pelegia	Wife	18	St. George	
	Philimonof, Fekla	Sister-in-law.	11	do	
17	Kushin, Michael	Husband	21	St. Paul	Nov. 21, 1884
	Kushin, Matrona	Wife	15	do	Nov. 27, 1891
	Kushin, Nestor	Nephew	13	do	Nov. 7, 1892
	Hanson, John	do	10	do	Apr. 7, 1896
	Kushin, Oulianna	Daughter	6 mo	do	Dec. 24, 1905
18	Hopof, Nekita	Bachelor	18	do	Sept. 27, 1888
	Kushin, Mary	Widow	51	St. George	
19	Melovidov, Alexander	Husband	31	St. Paul	Sept. 2, 1874
	Melovidov, Salome	Wife	30	do	Aug. 15, 1875
	Melovidov, Anton	Son	12	do	Dec. 13, 1893
	Melovidov, Alexandra	Daughter	4	do	Feb. 13, 1902
	Melovidov, Alfai	Son	3	do	June 13, 1903
20	Melovidov, Simeon	Husband	38	do	
	Melovidov, Alexandra	Wife	38	Akutan	
	Melovidov, Margaret	Daughter	14	St. Paul	Mar. 18, 1892
	Melovidov, Christopher	Son	12	do	Aug. 11, 1894
	Melovidov, Alexander	do	10	do	May 28, 1896
	Melovidov, Simeon, jr	do	7	do	June 7, 1899
21	Merculieff, Alexander	Husband	30	do	Aug. 27, 1875
	Merculieff, Agafia	Wife	28	do	May 9, 1878
	Merculieff, Paul	Son	11	do	July 4, 1894
	Merculieff, Auxenia	Daughter	10	do	Apr. 27, 1896
	Merculieff, Terenty	Son	3	do	Apr. 22, 1903
	Merculieff, Dorafay	do	1	do	Feb. 22, 1905
	Merculieff, Paul	Brother	16		Mar. 11, 1890
22	Merculieff, John	Husband	20	St. Paul	
	Merculieff, Avdotia	Wife	33	St. Michael	
	Merculieff, Serefima	Daughter	2	St. Paul	Aug. 10, 1904
23	Nozekof, Simeon	Husband	29	Unalaska	
	Nozekof, Ardotia	Wife	31	St. Paul	
	Nozekof, Mary	Daughter	8	do	Mar. 20, 1898
	Kozeroff, Ivanally	Half bro	18	do	July 14, 1888
	Kozeroff, Alexandra	Half sister	13	do	Feb. 9, 1893
24	Orloff, J. E. (Rev.)	Father	48	Sitka	
	Orloff, Nadia	Daughter	14	do	
	Orloff, Olga	do	16	do	
	Orloff, Nicoli	Son	12	do	
	Orloff, Alexandra	Daughter	9	do	
	Nederazof, Catherine	House-keeper.	48	do	
25	Pankof, Parfiri	Father	43	St. Paul	
	Pankof, Martha	Daughter	8	do	May 12, 1898
	Pankof, Vlass	Son	18	do	Feb. 21, 2888
	Pankof, Mary	Daughter-in-law.	19	do	July 31, 1886
26	Rookovishnekof, Stepan	Husband	25	do	Jan. 22, 1881
	Rookovishnekof, Elizabeth	Wife	19	do	June 28, 1887
	Rookovishnekof, Andrew	Son	1	do	July 17, 1905
27	Sedick, Theodore	Father	58	do	
	Sedick, Innokenty	Son	21	do	Oct. 4, 1884
	Sedick, John	do	9	do	Apr. 11, 1897
	Kochuten, Karp	Grandson	1	do	Aug. 25, 1905
	Kochuten, Mary	Daughter	19	do	July 13, 1886
	Kochuten, Theodore	Son-in-law	18	do	Mar. 1, 1888
28	Shabolin, Necon	Husband	39	do	
	Shabolin, Fekla	Wife	36	St. George	
	Shabolin, Varvara	Daughter	8	St. Paul	Jan. 18, 1898
	Shabolin, Matrona	do	6	do	Apr. 11, 1900
	Shabolin, Daniel	Son	3	do	Dec. 23, 1902

Exhibit 9.—*Native census, St. Paul Island, Alaska, year ended June 30, 1906*—Con.

No. of family.	Name.	Family relation.	Age.	Birthplace.	Date of birth.
29	Stepetin, Dorafay	Husband	35	St. Paul	
	Stepetin, Luboff	Wife	30	do	
	Stepetin, Chionia	Daughter	11	do	Dec. 9, 1895
	Stepetin, Auxenia	do	7	do	Feb. 6, 1899
	Stepetin, Helena	do	1	do	May 14, 1905
30	Stepetin, Elary	Husband	42	do	
	Stepetin, Anna	Wife	35	Unalaska	
	Stepetin, Agnes	Daughter	10	St. Paul	Feb. 1, 1896
	Stepetin, Nicoli	Son	3	do	May 21, 1903
	Stepetin, Mark	do	Inf.	do	May 8, 1906
31	Stepetin, John	Husband	27	do	July 6, 1879
	Stepetin, Vera	Wife	26	do	June 16, 1880
	Stepetin, Vassili	Son	5	do	Jan. 10, 1902
	Stepetin, Larion	do	2	do	Nov. 3, 1904
	Stepetin, Vassili	Nephew	13	do	Feb. 8, 1893
32	Shaisnakof, George	Husband	24	do	Apr. 23, 1882
	Shaisnakof, Oulianna	Wife	18	do	Nov. 1, 1888
	Shaisnakof, Sergius	Son	1	do	Nov. 30, 1905
33	Tetoff, Neon	Husband	36	do	Sept. 14, 1869
	Tetoff, Agrifina	Wife	31	Unalaska	June 23, 1885
	Tetoff, Mary	Daughter	10	St. Paul	Jan. 6, 1896
	Tetoff, Demetri	Son	8	do	Nov. 6, 1897
	Tetoff, Irena	Daughter	6	do	Mar. 29, 1900
	Tetoff, Agrifina	do	4	do	June 14, 1902
	Tetoff, John	Son	2	do	May 12, 1904
34	Tetoff, Peter	Husband	41	do	
	Tetoff, Mary	Wife	45	St. George	
	Kochuten, Varvara	Adopted daughter.	9	St. Paul	Dec. 17, 1896
35	Tetoff, Zachar	Husband	27	do	May 21, 1879
	Tetoff, Daria	Wife	26	St. George	Mar. 31, 1880
	Tetoff, Paul	Son	1	St. Paul	June 5, 1905
36	Krukof, Condrat	do	16	do	Mar. 22, 1890
	Krukof, Feotesta	Mother	40	do	
37	Mazeekin, John	Bachelor	17	do	Sept. 26, 1889
	Seduli, Elizabeth	Widow	65	Unalaska	
	Stepetin, Marina	Daughter of John.	8	St. Paul	Mar. 17, 1898
	WIDOWS AND ORPHANS.				
38	Kochutin, Zenobia	Mother	38	do	
	Kochutin, Innokenty	Son	3	do	Dec. 7, 1902
	Kochutin, Mark	Nephew	11	do	Nov. 4, 1894
39	Krukof, Anna	Widow	40	do	
	Krukof, Mary	Daughter	9	do	
40	Emanof, Mary	Widow	28	Atka	
	Emanof, Eneka	Son	5	St. Paul	Nov. 1, 1901
	Emanof, Peter	do	3	do	Oct. 11, 1903
41	Peeshnekof, Wassalisia	Widow	46	do	
42	Artomonof, Alexandra	do	52	St. Michael	
	Vikilof, Alexandra	Adopted daughter.	11	St. Paul	
43	Balakshin, Matrona	Widow	56	do	
	Shaposhnikof, Parascovia	Spinster	39	do	
	Rookovishnekof, Parascovia	Niece	17		Mar. 23, 1889
44	Frates, Akalina	Widow	32	Unalaska	
	Frates, Agrafina	Daughter	15	St. Paul	June 13, 1891
	Frates, Simeon	Son	12	do	Feb. 15, 1894
	Frates, Oulianna	Daughter	10	do	Jan. 13, 1896
	Frates, Martha	do	7	do	Feb. 19, 1899

RECAPITULATION.

Males	85
Females	83
Native population June 30, 1905	164
Births during year ended June 30, 1906	10
Total	174
Deaths during year ended June 30, 1906	6
Native population June 30, 1906	168

EXHIBIT 10.

ST. PAUL ISLAND, ALASKA, *April 30, 1906.*

Mr. W. C. ALLIS,
Agent North American Commercial Company.

DEAR SIR: I herewith submit to you the following school report for the eight months commencing September 4, 1905, and ending April 30, 1906, both inclusive:

Pupils' names.	Age.	Days present.	Days absent (excused on account of sickness).	Times tardy.	Reading.	Spelling.	Arithmetic.	Writing.	Geography.	Grammar.	United States history.
Fifth reader.	*Yrs.*										
Ludmilla Melovidov	14	153	....	....	3	3	3	3	2	2	3
Olga Orloff	16	145	8	....	2	2	3	3	2	1	3
Nadia Orloff	14	142	11	....	3	3	3	3	2	1	3
Fourth reader.											
Pavla Stepetin	14	148	5	....	2	2	2	3	1	0	2
Agraphina Fratis	14	133	20	....	2	3	2	3	2	....	....
Third reader.											
Simeon Fratis	12	150	3	....	2	3	2	2	2	....	....
Christopher Melovidov	12	153	....	....	2	2	3	2	2	....	....
Anton Melovidov	12	152	1	....	2	3	3	2	2	....	....
Nestor Kushin	14	147	6	....	2	3	2	2	2	....	....
Second reader.											
Oulianna Fratis	10	147	6	....	3	2	2	3	....	....	....
Alexandra Kozeroff	15	153	....	15	2	2	2	3	....	....	....
Repsemia Seerebrinikoff	14	152	1	7	2	2	2	3	....	....	....
Larion Kotchooten	14	152	1	5	2	3	2	2	....	....	....
Nicholai Orloff	12	150	3	....	3	3	3	2	....	....	....
Andrew Diakanoff	12	153	....	....	3	3	2	2	....	....	....
Nekifar Mandregan	11	149	4	5	3	3	2	2	....	....	....
First reader.											
Alexander Melovidov	10	153	....	....	3	3	3	2	....	....	....
Paul Merculieff	13	152	1	....	2	1	0	2	....	....	....
Vassely Stepetin	14	153	....	8	3	0	0	1	....	....	....
John Hansson	11	153	....	....	3	2	3	2	....	....	....
Mark Kotchooten	12	151	2	10	3	1	0	2	....	....	....
Agnia Stepetin	10	152	1	....	2	2	2	3	....	....	....
Alexandra Vekoloff	12	149	4	10	3	2	3	2	....	....	....
First primer.											
Vassa Meezekin	12	153	....	7	1	0	0	2	....	....	....
Auxenia Mereulieff	11	152	1	....	1	0	0	2	....	....	....
Mary Tetoff	11	151	2	8	3	0	3	2	....	....	....
Mary Emanoff	15	148	5	3	2	1	1	2	....	....	....
Second primer.											
Chionia Stepetin	11	153	....	5	3	0	3	2	....	....	....
Feocla Philimonoff	11	153	....	2	3	0	2	2	....	....	....
Mary Krukoff	10	151	2	....	2	....	....	2	....	....	....
Agraphina Bogdanoff	10	144	9	....	3	....	....	2	....	....	....
Mavra Pankoff	9	139	14	....	2	....	....	2	....	....	....
Varvara Kotchooten	10	147	6	....	3	....	....	2	....	....	....
Alexandra Orloff	7	148	5	....	3	....	....	3	....	....	....
Simeon Melovidov	7	153	....	....	3	....	....	2	....	....	....
Alexia Emanoff	8	149	4	....	3	....	....	2	....	....	....
John Sedick	10	152	1	....	2	....	....	1	....	....	....
Third primer.											
Martha Fratis	7	142	11	....	2	....	....	3	....	....	....
Varvara Shabolin	8	125	28	....	3	....	....	2	....	....	....
Auxenia Stepetin	8	150	3	....	3	....	....	2	....	....	....
Marina Stepetin	8	144	9	....	1	....	....	2	....	....	....
Demetry Tetoff	9	153	....	....	1	....	....	0	....	....	....
Alexander Vikoloff	9	148	5	....	0	....	....	0	....	....	....
Innokenty Mandregan	15	152	1	....	1	....	....	2	....	....	....
Techan Volkoff	14	153	....	....	0	....	....	0	....	....	....
Total	....	6,702	183	85	....	....	....	....	....	....	....

The characters of the pupils' recitations marked thus: Good, 3; medium or fair, 2; poor, 1; very poor, 0.

General summary.

Pupils enrolled (males 20, females 25)	45
Average daily attendance	$43\frac{4}{5}+$
Average daily absences (excused on account of sickness)	$1\frac{19}{51}$
Average per cent of attendance	97+
Average age of pupils	$11\frac{1}{3}$
Cases of tardiness	85
Days of school	153
Weeks of school	$30\frac{3}{5}$
Holidays	13
Days Christmas vacation	5
Number of classes	8
Pupils in—	
Reading	45
Writing	45
Spelling	29
Arithmetic	29
Geography	9
Grammar	4
United States history	4

The following is the statement of time of tuition and study throughout eight months: 9 o'clock a. m., calling the roll, five minutes; arithmetic, thirty minutes; spelling, twenty minutes: fifth reader, twenty minutes; fourth reader, fifteen minutes; slate work, fifteen minutes; recess, fifteen minutes; third reader twenty minutes; second reader, thirty-five minutes; calisthenics, fifteen minutes. 1 o'clock p. m., calling the roll, five minutes: first reader, twenty-five minutes; primer classes, fifty minutes; slate work. forty minutes. Monday and Wednesday, geography and drawing; Tuesday and Thursday, penmanship and grammar; Friday, United States history, singing, and reviews.

Names of text-books used: Baldwin's and McGuffy's readers and spellers, Robinson's and White's arithmetics, Cornell's geography, Swinton's first lessons in United States history, Swinton's language primer, California vertical copy-books.

Respectfully,

SIMEON A. MELOVIDOV, *Teacher.*

EXHIBIT 11.—*Division of natives' earnings, St. Paul Island, Alaska, season of 1906,*

By 12,536 fur sealskins, at 75 cents		$9,402.00
To 23 first-class shares, at $252.75	$5,813.25	
To 11 second-class shares, at $202.20	2,224.20	
To 5 third-class shares, at $151.65	758.25	
To 5 fourth-class shares, at $101.25	506.25	
To 2 special class shares	100.05	
		9,402.00

First-class shares, 23 men at $252.75, as follows:

Alex. Melovidov.	George Kochergin.
Karp Buterin.	John Kochutin.
Jacob Kochutin.	Alex. Merculieff.
Nicoli Krukoff.	Parfiri Pankoff.
Simeon Melovidov.	Elary Stepetin.
Simeon Nozekoff.	Neon Tetoff.
Theo. Sedick.	J. E. Orloff.
Dorafay Stepetin.	John Krukoff.
John Stepetin.	George Shaisnekoff.
Apollon Burdukofsky.	Peter Tetoff.
Nicoli Bogodanoff.	Necon Shabolin.
Zachar Tetoff.	

Second-class shares, 11 men at $202.20, as follows:

Peter Burdukofsky.	Paul Koshevnikoff,
Nicoli Gromoff.	Michael Kozloff.
Michael Kushin.	John Fratis.
Innokenty Sedick.	Metrofan Krukoff.
Stepan Rookavishnikoff.	John Merculieff.
Trefan Kochutin.	

Third-class shares, 5 men at $151.65, as follows:

Alex. Galaktioneff.	Nicoli Kozloff.
Constantine Buterin.	Theo. Kochutin.
Vlass Pankoff.	

Fourth-class shares, 5 men at $101.25, as follows:

Ivanally Kozeroff.	Condrat Krukoff.
Nekita Hopoff.	Paul Merculieff.
John Mazeekin.	

Special class shares, 2 men, as follows:

Karp Buterin, first chief.	$50.05
Alex. Merculieff, second chief	50.00

ST. PAUL ISLAND, ALASKA, *August 8, 1906.*

I hereby certify that the above division was made by me, in the manner detailed above, after conference with the representative of the North American Commercial Company and the native chiefs on this island.

JAMES JUDGE,
Assistant Agent Seal Fisheries.

ST. PAUL ISLAND, ALASKA, *August 8, 1906.*

I hereby certify that the amounts as above stated, representing the division on St. Paul Island for the season of 1906, will be placed to the credit of the respective natives on the books of the North American Commercial Company.

THE NORTH AMERICAN COMMERCIAL COMPANY,
By J. C. REDPATH, *Agent.*

ST. PAUL ISLAND, *Alaska, August 8, 1906.*

We hereby approve the division for St. Paul Island, for the season of 1906, as detailed above, for and on behalf of the natives of said island.

KARP BUTERIN, *First Chief.*
NICOLI GROMOFF, *Acting Second Chief.*

EXHIBIT 12.

ISLAND OF ST. PAUL,
Bering Sea, Alaska, August 14, 1906.

This is to certify that 12,536 fur seal-skins have this day been shipped on board the North American Commercial Company's steamer *Homer*, consigned to The North American Commercial Company, San Francisco, Cal.

JAMES JUDGE,
Assistant Agent Seal Fisheries.

Shipper's load and count.

A. DONALDSON, *Master Steamer Homer.*

EXHIBIT 13.

ST. GEORGE ISLAND, ALASKA, *June 1, 1906.*

Mr. WALTER I. LEMBKEY,
Special Agent, Department of Commerce and Labor,
In Charge of the Seal Islands.

SIR: I have the honor to submit herewith my report on the condition of affairs on St. George Island from August 14, 1905, to the present date.

After the departure of the company's vessel *W. H. Kruger* August 14, 1905, the U. S. S. *Manning* called here three times, August 17, 26, and September 6, and the U. S. S. *Bear*, on her way out from the Arctic, August 29, and again on October 7, making a special trip from Dutch Harbor to bring mail, since which time we have seen no vessels of any kind.

On the second trip of the *Manning* I sent the two little orphans—Alexandria and Stepanida Oustegof—to the Jesse Lee Home at Unalaska, Captain Fengar kindly giving them passage.

Shortly before dark on the 3d of October a schooner was sighted passing the west end of the island. The guard at Zapadni telephoned that she was heading in for that place. With an armed guard I immediately went over, arriving after dark. The natives reported her at anchor in the bay. Patrolled the rookery all night, but there was no attempt to raid and when day dawned there was no vessel in sight.

During the winter a part of a boat and considerable wreckage marked *S. S. Corwin* came ashore at Zapadni.

School.—School opened on September 1 and was maintained for the period of eight months. Fourteen boys and 11 girls were in attendance. Mr. Edson, the teacher, carried on the school in a satisfactory manner. His report is inclosed herewith.

Dead pups.—At the usual time in the fall I went carefully over the rookeries in search of dead pups, but none were found. The foxes eat them as fast as they die.

Seals.—The 300 seals allowed the natives of this island for food during the fall were obtained. One hundred and thirty-three were secured the first drive, which was made on the 19th of October. Among the seals in this drive were 20 of those reserved last summer for breeding purposes, whose heads still bore evidences of clipping. The punch mark which I placed on the hind flipper of every seal branded last summer aided us in recognizing some of these seals, but in a great many instances nature had so obliterated the mark in the process of repair that a very minute examination was required to tell whether the flipper had been punched or not, and in some cases it was impossible to tell at all with certainty. Wherever there was any doubt the seal was allowed to go. I think, had the punch been smaller, cutting out a small round hole instead of a half moon, the results would have been more satisfactory.

Stock raising.—Last summer the natives requested that they be allowed to purchase some pigs with a view to stock raising. As the plan, if successful, might result in obtaining a regular supply of much needed fresh meat for the people, as an experiment they were allowed to purchase 4—3 sows and a boar, the company kindly furnishing them at cost price. During the summer a snug warm sod house was built for them, and I have been agreeably surprised at the really excellent care the natives have bestowed upon them throughout the entire winter. During the fall a large quantity of dry grass was cut and stored for bedding and slops from the different houses furnished the food supply. The whole 4 came through the winter in good shape and have now increased to 13, with still 1 more sow to be heard from.

Improvements.—A small addition to the Government house has been built to hold the entire year's supply of coal, and with the aid of the company's donkey engine it can be filled in a very short time, thus doing away with the necessity of having to carry coal up the long hill on the backs of men at intervals during the winter.

The natives finished the interior of their clubhouse, which they were unable to do last year on account of lack of lumber. The structure is now complete and has proved a great comfort to the people.

Roads have been repaired wherever it was necessary.

The lines painted on East Rookery last year to aid in the counting of the seals have been repainted and improved upon.

General health.—The health of the native inhabitants has been exceptionally good. But 2 deaths have occurred, an adult of tubercular meningitis and a young infant of general debility. There have been 6 births—2 boys and 4 girls.

Foxing.—In accordance with the terms of the new lease I took entire charge of the feeding and trapping of foxes on this island.

Feeding.—At the beginning of the season the agent of the North American Commercial Company turned over to me 22,851 pounds of dried salmon, which when soaked up weighed in the neighborhood of 38,000 pounds, and 650 pounds of salted salmon. This, in addition to the 338 seal carcasses put up during the sealing season, constituted the available food supply for eight months. In view of the shortage of food I delayed feeding in the fall as long as it was possible, beginning October 1 instead of September 15, as is the rule, and I found it necessary to dole out the food sparingly throughout the entire winter in order that I should have enough to carry through, deeming that a small supply of food all winter was far better than full feeding for four or five months and then nothing for the rest of the time. Where the food supply is practically unlimited, as it was the winter of 1904-5, the generous method of feeding as laid down in the "Regulations" can be easily carried out, but with the small amount of food I had at my disposal this year to have adhered closely to the regulations would have resulted in leaving the foxes without food for a period of several months and at a time too when

feeding is most essential. It has been the practice for several years past to put the carcasses of the seals killed at Zapadni into a hole in the ground without salt and cover them up with dirt. This method resulted sometimes in saving as much as one-fifth of the amount of meat originally put up, but in most cases it all spoiled. As every pound of meat was needed I salted all the carcasses of seals killed at Zapadni last summer, amounting in all to 118. In February I sent a number of butter barrels over on sledges in which, during the months of March and April, the meat was freshened and fed to the foxes. It was all eaten. For a few days toward the end of November vast numbers of sea quail gathered about the island. Patches containing an acre or more covered the surface of the water. Numbers of these birds drifted ashore and furnished many meals for the foxes.

Trapping.—The company's agent having advised me that after the 20th of November he would accept skins I began the trapping on November 21 and continued to do so at frequent intervals until February 9, when killing was discontinued, the skins beginning to show signs of becoming stagey. Three trappings were made after February 9 for the purpose of ascertaining if there were still any unbranded foxes at large. The result was somewhat surprising, as 33 new ones were caught. They were branded and released.

Two regular traps were used—one located at the fox house on the beach, the other at the company's barn, and 65 different trappings were made during the season. The work began usually about 3.30 p. m. and continued until 9 or 10 p. m. and sometimes even later, depending somewhat on the number of foxes hanging about the trap. They were very erratic in entering the trap. At times they came in freely and apparently without fear, at others were timid and would not come in at all. This was especially noticeable when the wind blew through the house into the trap, carrying the scent of the man who is operating the drop. With a hope of doing away with the man-operating trap I devised one which was sprung and reset automatically by the fox. While it was perfect in its working and proved a valuable aid in the foxing operations, I am sorry to say it did not accomplish the object for which it was built. For some reason, which I was unable to discover, this form of trap never caught more than 8 foxes in a single night, and its usual number was 1 or 2. Three of these machines were installed, 1 at the Government boathouse, East Landing, 1 at the east end of the village, and 1 at the fox house. The one at East Landing did the best work, catching during the season 52 foxes. The other two traps caught 31 between them.

Three times during the season foxing gangs were sent to Zapadni, remaining a week each time. Seventy-four foxes were taken at this place. On the third trip the weather suddenly became very cold and the men nearly froze to death.

A number of foxes were also taken at various parts of the village by the natives using string traps.

The total number of foxes caught was 1,044; of these 463 were killed, and 581 released for breeding purposes. The foxes turned away for breeders were in every instance the finest and largest of the catch, and with but few exceptions were personally selected by me after careful examination and weighing. Of those turned away at Zapadni I, of course, had to rely on the natives to do the selecting, but they were instructed to brand only first-class animals of standard weight. As the animals they killed were all of more or less inferior quality, judging from the skins, I have good reason to suppose that my instructions were faithfully carried out.

The largest fox captured was an enormous female weighing 21¾ pounds. Her skin was dark in color and she was indeed a magnificent animal.

The weather throughout the entire season was on the whole more favorable to the trapping of foxes than to the foxes themselves, for while the early winter was mild and there was but little rain or snow, the latter part was of great severity, and the month of May was ushered in by a blizzard that lasted three days, and covered everything deep with wet snow, which must have been very hard on any foxes born at that time.

Ice made its appearance on January 25 and remained three days. It did not return again until March 1, when it stayed nine days. Many foxes were observed wandering about over it.

Branding.—At Mr. Judge's suggestion all male foxes released for breeding purposes were branded at the tip of the tail and all females close to the body. It was hoped that these distinguishing marks might assist in throwing some light on the subject of whether or not the foxes pair off in the spring. The results were of small value. While these marks made it quite easy to tell at a glance the sex of any fox which had passed through our hands it offered no means by which individual foxes might be recognized. A male and female fox may be seen together for hours and both may enter the same hole, but there is no way of telling that the foxes you see in this same locality to-morrow are the same foxes that you see to-day.

It is a common sight in the spring to see foxes in pairs playing together. It was always supposed that such were male and female, and this fact has been used as an argument in favor of the pairing theory. In reality, these couples are just as likely to be 2 females or 2 males as male and female. The differential method of branding has shown this much at least.

During the whole of last summer I had an excellent opportunity for daily observing a family of foxes composed of a mother and 11 young ones whose home was under a small culvert within 50 feet of my window. One of the mother's forelegs was stiff and useless and by this deformity could be easily recognized, even at a considerable distance. Never during the three months of my watching did I once see any other fox go under this culvert, bring food for the young or take any interest in them whatever, except their mother. Neither did I see any fox act toward this female in a manner that would indicate he was her mate.

From among the young males and females selected for breeding 50 of each sex were ear marked, a V-shaped section being taken from the left ear of each.

Of the number of foxes that remained unbranded at the close of foxing there is no way of knowing, but it is pretty certain that the number must be considerable, for on March 7 out of 17 foxes hanging about the fox house 7 were unbranded, and a fair proportion of those met with about the island bear no marks on their tails.

Dead foxes.—From August, 1905, to June, 1906, there have been picked up at various points about the island 23 dead foxes. Three met death by drowning, 1 was stoned to death by a small boy, 3 died of kidney disease, 1 of tuberculosis, and 3, probably, from eating salted salmon that had not been sufficiently freshened. What caused the death of the others is not known. Whenever it was practicable both Doctor Mills and myself autopsied the dead animals, but out of 16 such autopsies the cause of death in only 5 instances could be definitely ascertained. The extreme degree of emaciation exhibited by some of these dead foxes at once suggests starvation, but does not prove it, for emaciation may be the result of any one of half dozen different disorders. As foxes are afflicted with diseases of various kinds, tuberculosis, affections of the kidneys, intestinal worms, necrosis, and others, I have no doubt, of a more obscure character, it is a grave mistake to assume that all foxes, simply because they happen to be in poor flesh at the time of death, succumbed to starvation.

The importance of disease as a factor in the mortality among the foxes I believe has been greatly underestimated if not entirely overlooked.

Miscellaneous notes.—On my daily tramps about the island during the summer months I constantly observed that among the litters of young foxes met with there were a number of individuals that were part blue and part white. I counted as many as a dozen of these hybrids in different localities, yet after the month of September, with but one exception, when I saw one hanging about the field during a seal killing, I have never run across one of these animals. The only way that I can account for it is that as winter comes on their party-colored coats become all white.

Before the skins were packed for shipment I went over the whole lot and classified them. I found there were 289 first class, good fur and good color; 144 second class, good fur, slightly off color; 23 third class, poor fur, poor color, of little value.

Examination of the bodies of foxes killed in trapping developed the peculiar and interesting fact that the 4-year old and older foxes were almost without exception very fat. Many of these old foxes had not a tooth in their heads and yet were in prime condition. The yearlings were generally the poorest in flesh. I think this indicates that the older foxes are much more adept in the art of obtaining food than the young ones, and that a fox's ability to obtain a good living is not dependent on the condition of his teeth.

The young foxes are born in nests on top of the ground, where they remain for a short time; they are then taken into the burrow, the mother carrying them in her mouth just as a cat does her kittens.

Respectfully.

H. D. CHICHESTER,
Assistant Agent, Department of Commerce and Labor.

[Inclosure A.]

ST. GEORGE ISLAND, ALASKA, *February 15, 1906.*

This is to certify that during the foxing season ended February 9, 1906, the resident agent of the Department of Commerce and Labor has offered me 468 blue and 12 white fox skins, and that, as agent of the North American Commercial Company, I have accepted 456 blue at $5 each and 11 white at $1 each, and rejected as defective and undesirable 12 blue and 1 white.

The money involved, which is hereby acknowledged as amounting to $2,291, will be entered as a credit on the books of this company in favor of the natives domiciled on this island, and shall be available for the support and maintenance of said natives as the agent of the Department of Commerce and Labor may direct.

THE NORTH AMERICAN COMMERCIAL COMPANY,
By J. A. LAKE, *Agent*.

[Inclosure B.]

Live weights of foxes killed on St. George Island, season of 1905–6.

Weight.	Male.	Female.	Weight.	Male.	Female.
Pounds.			*Pounds.*		
4	.....	1	9	30	11
4½	.....	1	9¼	12	1
5	.....	2	9½	13	7
5¼	4	4	9¾	1	1
5¾	1	3	10	9	5
6	5	21	10¼	1	.....
6¼	3	3	10½	3	1
6½	5	23	10¾	2	.....
6¾	6	7	11	5	1
7	12	49	11¼	1	.....
7¼	6	29	11½	1	.....
7½	11	23	12	2	2
7¾	8	9	13	2	.....
8	29	25	13¾	1	.....
8¼	6	2	14	2	.....
8½	23	8			
8¾	14	6		218	245

Does not include the foxes found dead.

[Inclosure C.]

Live weights of foxes released for breeding on St. George Island, season of 1905–6.

Weight.	Male.	Female.	Weight.	Male.	Female.
Pounds.			*Pounds.*		
7¼	.....	32	12¾	2	1
7¾	.....	11	13	12	7
8	.....	48	13¼	2	2
8¼	.....	25	13½	3	1
8½	.....	38	13¾	1	.....
8¾	.....	15	14	6	.....
9	.....	23	14½	2	1
9¼	.....	6	14¾	2	.....
9½	.....	23	15	4	1
9¾	19	7	15½	1	.....
10	64	19	15¾	1	.....
10¼	15	1	16	2	.....
10½	30	6	17	1	.....
10¾	16	4	17¼	2	.....
11	30	9	17½	1	.....
11¼	7	.....	20	1	.....
11½	16	8	20¼	1	.....
11¾	2	2	21¾	.....	1
12	25	5			
12¼	1	2		279	302
12½	10	4			

[Inclosure D.]

Approximate ages of foxes killed on St. George Island, season of 1905–6.

	Male.	Female.
Young, or approximately 1 year old	75	107
Middle aged:		
2 years old	72	49
3 years old	33	31
Old, or over 3 years	47	66
Total	227	253

[Inclosure E.]

Approximate ages of foxes released for breeding on St. George Island, season of 1905–6.

	Male.	Female.
Young, or approximately 1 year old	52	107
Middle aged:		
2 years old	116	121
3 years old	103	70
Old, or over 3 years	8	4
Total	279	302

[Inclosure F.]

Fox division, season 1905–6, St. George Island, June 1, 1906.

By 456 blue fox skins, at $5		$2,280.00
By 11 white fox skins, at $1		11.00
To 12 first-class men, at $111.75	$1,341.00	
To 8 second-class men, at $89.35	714.80	
To 2 third-class men, at $67.10	134.20	
To 2 special-class men	65.00	
To material for native club, pig house, and waterworks	36.00	
Total	2,291.00	2,291.00

FIRST CLASS.

1. Stepan Lekanof	$111.75
2. Demetri Lestenkof	111.75
3. Mike Lestenkof	111.75
4. Nicoli Malavansky	111.75
5. George Merculif	111.75
6. Joseph Merculif	111.75
7. Nicoli Merculif	111.75
8. Andronic Philamonof	111.75
9. Gregory Philamonof	111.75
10. Simeon Philamonof	111.75
11. Peter Prokopief	111.75
12. Rev. Peter Kashavarof	111.75

SECOND CLASS.

1. Alexander Galanin	89.35
2. John Galanin	89.35
3. Walter Kashavarof	89.35
4. Peter Malavansky	89.35
5. Nicoli Nedarazof	89.35
6. Mike Shane	89.35
7. Gregory Swetzof	89.35
8. Manuel Zaharof	89.35

THIRD CLASS.

1. Marka Merculif	67.10
2. Demetri Philamonof	67.10

SPECIAL CLASS.

1. Stepan Lekanof, chief	$35.00
2. Joseph Merculif, second chief	25.00
Joseph Merculif, hydrant keeper	5.00

The division as above made is hereby approved on behalf of the natives of this island.

STEPAN LEKANOFF, *First Chief.*
JOSEPH MERCULIEFF, *Second Chief.*

I certify that the amounts indicated herein have been placed to the credit of the respective natives, on the books of the North American Commercial Company.

THE NORTH AMERICAN COMMERCIAL CO.,
By J. A. LAKE, *Agent.*

I certify that the above division was made by me after conference with the native chiefs.

H. D. CHICHESTER,
Agent, U. S. Department of Commerce and Labor.

[Inclosure G.]

School report, 1906.

ST. GEORGE ISLAND, ALASKA, *April 30, 1906.*

Mr. H. D. CHICHESTER,
Special Agent, U. S. Department Commerce and Labor,
In Charge St. George Island, Alaska:

As required by the lease of the seal islands of Alaska, by the North American Commercial Company, a school for the native children of St. George Island has been maintained for eight months past, and instruction in the English language has been given to all children between the ages of 6 and 16 years.

The school was attended throughout the year by 25 pupils—14 boys and 11 girls—excepting absences of twenty-five days as shown below.

The usual vacation of ten days at Christmas, Thanksgiving Day, Washington's Birthday, and five "holy days" of the Russian Church have been observed.

Boys attending school		14
Girls attending school		11
Total		25
Weeks in school year		35
Days in school year		171
Holidays:		
Christmas recess	days	10
Thanksgiving Day	do	1
Washington's Birthday	do	1
Church	do	5
Total	do	17
School actually in session	days	154
Absences:		
Excused by Government agent		1
Excused by doctor		33
Unexcused		16
Total absences		50
Total days		25
Attendance for the year	days	3,825
Average daily attendance		$24\frac{129}{154}$

C. R. EDSON,
Teacher for North American Commercial Company.

[Inclosure H.]

Annual statement of foxes caught on St. George Island, season of 1905–6.

Date.	Location and style of trap.	Killed.				Released for breeders.	
		Blue.		White.		Blue.	
		Male.	Female.	Male.	Female.	Male.	Female.
1905. Aug. 25 to Nov. 20	Found dead	6	6				
20	Barn, regular	12	8	1	2	17	24
20	Fox house, regular	8	7			3	12
21	East Landing, automatic	1	1			1	1
22	....do	1	2				
23	Fox house, regular	3	3				2
23	Barn, regular					2	
24	East Landing, automatic	1	1				
24	Fox house, automatic	1					
25	....do		1				
25	East Landing, automatic	2					
26	Barn, automatic						2
26	Fox house, automatic						1
26	East Landing, automatic	1	1			3	3
27	Fox house, regular	6	8			7	12
27	Barn, regular	1	2			2	3
27	East Landing, automatic		1	1			1
28	....do					1	
28	Fox house, automatic						1
29	Fox house, regular	6	7			6	15
29	Barn, regular	3	1		1	3	3
30	Fox house, automatic	1					1
Dec. 1	Fox house, regular	6	2			4	8
1	Barn, regular	3	1			2	3
1	East Landing, automatic					1	2
1	Fox house, automatic	1				2	1
2	East Landing, automatic						1
2	Fox house, automatic	1	1				3
4	Village, automatic					2	
4	East Landing, automatic		1				
4	Fox house, regular	5	5		1	7	7
4	Barn, regular	4	3			3	2
5	East Landing, automatic	3	3			2	
6	Fox house, regular					1	1
6	Barn, regular					3	
6	Village, automatic						1
6	East Landing, automatic		1			2	
6	Found dead	1					
8	Fox house, regular	2	1			1	
8	Barn, regular	2					2
8	East Landing, automatic	2					1
10	Fox house, regular	9	5			4	11
11	East Landing, automatic	1				1	
12	Fox house, automatic	1	1				1
12	....do	9	5			5	5
12	Barn, regular	1	1			2	4
13	Fox house, automatic	1	1				
14	Fox house, regular	2	1			3	
15	Fox house, automatic		1				
15	East Landing, automatic						1
16	Fox house, automatic						2
11–16	Zapadni	15	14			16	13
17	East Landing, automatic	1					
17	Fox house, automatic		1				
17	Fox house, regular	2			1	3	2
17	Barn, regular	1	1				
18	Village	2	4			4	6
18	Fox house, regular					2	1
18	Barn, regular	2				1	
19	East Landing, automatic		1				
19	Village	1	2				6
19	Fox house, automatic	1					1
20	Village	4	2			9	9
20	Fox house, regular	6	5			2	5
21	East Landing, automatic					1	1
21	Village	3	1			6	5
21	Fox house, regular	1	2	1			2
22	Village, automatic	1					1
22	East Landing, automatic	1					1
22	Village	4				3	3
23	Found dead	1					
23	Fox house, automatic						1
25	....do					1	
18–23	Zapadni	5	3	1		4	3

Annual statement of foxes caught on St. George Island, season of 1905–6—Continued.

Date.	Location and style of trap.	Killed.				Released for breeders.	
		Blue.		White.		Blue.	
		Male.	Female.	Male.	Female.	Male.	Female.
1905.							
Dec. 18	Found dead, Zapadni			1			
26	Village	3				3	5
26	Fox house, regular	2	2			2	5
26	Barn, regular		1			3	
27	Village	1	2			1	3
28	Fox house, regular	7	9			14	16
28	Barn, regular	1				2	
29	Village	1	1	1		4	5
29	Fox house, regular	5	5			6	7
31	....do	4	4			4	3
31	Barn, regular		1				1
1906.							
Jan. 2	Village	1	1			3	5
2	Fox house, regular	1	5				2
2	Barn, regular	3				1	1
3	Village		2			1	1
4	Fox house, regular	1	6			6	3
4	Barn, regular	1	1			3	1
5	Fox house, regular	2	4			2	5
5	Barn, regular		1		1	1	
9	Fox, regular		2			4	
11	Fox house, regular		5			2	5
12	Village		1			2	3
15	....do		1			2	
15	Found dead		1				
17	Fox house, regular					6	1
17	Barn, regular					1	
19	Fox house, regular		3			4	2
21	Village		3			4	2
21	Fox house, regular	3	10			11	5
22	....do		2			2	
24	....do		1			2	
25	Zapadni		1				
26	Village		4			2	3
26	Fox house, regular		2			3	1
26	Barn, regular					1	
28	Fox house, regular	4	5			4	1
28	Barn, regular		5			2	
29	Fox house, regular	2	6			2	
30	....do	1					
31	....do		1				
Feb. 1	....do	3	1			1	
1	Barn, regular	4	1				
2	Fox house, regular		1			3	
4	....do		1				
5	....do	2	4				
6	Village					1	
7	Fox house, regular	1	10			1	1
8	....do	4	9			2	
9	....do	6	3			4	
11	....do					6	4
12	Found dead		1				
14	Fox house, regular					3	8
16	....do					6	6
Mar. 19	Found dead	1					
	Total	222	247	6	6	279	302

EXHIBIT 14.

ST. GEORGE ISLAND, ALASKA, *August 5, 1906.*

SIR: I have the honor to submit the following report of the operations on this island from June 8, 1906, to date:

Branding of bachelors.—The first drive for branding was made at Zapadni on June 14 and 14 3-year-olds, 4 2-year-olds, and 11 4-year-olds were marked and liberated. From this date to June 30 drives for branding were made from the various rookeries as often as the number of seals thereon would warrant, and the quota secured. In addition to the 200 3-year-olds and 200 2-year-olds branded we marked 58 4-year-olds. This was done to prevent accidental clubbing. Sheep shears only were used in the branding and no trouble was experienced, either in handling the seals or in clipping them after

they had been secured. None died during the operations. During the summer the lessee killed 5 of the seals branded this year and to make this loss good I branded 5 more.

A summary of the branding is as follows:

Date.	Rookery.	Two-year.	Three-year.	Four-year.
June 14	Zapadni	4	14	11
16	Staraya Artel and North	46	44	.....
21	....do	68	70	21
22	Zapadni	19	36	19
25	Staraya Artel, East, and North	63	23	4
30	....do	.....	13	3
	Total	200	200	58
	Killed by lessee during summer	2	3	.....
		198	197	.....
July 16	Staraya Artel and East	2	3	.....
	Total	200	200	58

Drives.—During the summer the lessee made 14 drives and obtained 1,685 skins. This includes 3 drives for branding, from which the lessee was allowed to take 95 seals, in order that the natives should have a necessary supply of fresh meat. In the fall of 1905 and spring of the present year 315 seals were killed by me for native food. Adding these skins to the 1,685 taken by the lessee this summer the quota of 2,000 allowed this island is filled.

Weight of skins.—All sealskins taken on this island during the season just closed have been weighed by me personally.

Until July 6 but few under or over weight skins were taken by the lessee, but on that date in a drive from North and Staraya Artel rookeries 14 seals having skins weighing less than 5 pounds were killed. I at once brought the matter to the attention of the lessee's agent, Doctor Noyes, protesting against the killing of these small seals. I also wrote him the letter a copy of which is herewith attached as Exhibit A. On July 21 a killing of 211 seals was made. On weighing in the skins I found that there were 22 underweight. Again I vigorously protested against the killing of this class of seals. In subsequent killings no underweight skins were taken.

Of the 1,685 skins obtained by the lessee this season, 55 weigh less than 5 pounds and 5 over 8½ pounds. In accordance with instructions contained in departmental letters dated March 9 and May 12, 1906, I have forbidden the shipment of these skins from the island and hold same subject to further orders from the Department.

A summary in detail of the weights for this island is submitted as Exhibit B.

Seals dismissed from drives.—The total number of seals dismissed this summer from the various drives was 1,729. Of these 747 were small, 621 branded this year, 344 large, 9 branded on head with iron, and 8 branded across back with iron. A classification of the large seals released will be found in the summary submitted herewith as Exhibit C.

In the drives made on June 21 and 25 there appeared a young bull with a large T brand across his back. As this form of brand was used only in 1899, this bull must be just 7 years old. On July 12 we found him at the water's edge near No. 17 North Rookery, where he had established himself on the flank of a large harem presided over by 3 large bulls, and although they attacked and handled him pretty roughly from time to time they could not drive him away. On July 20 he had hauled out on the terrace back of his first location and had appropriated 11 cows from the large harem already mentioned. On July 29 when we counted pups we found him still in place, but with a considerably larger number of cows.

It has been noted by both Major Clark and myself that seals which have been branded across the back with a hot iron are generally smaller than unbranded seals of the same age. This seems to be borne out by the fact that two 3-year-old bachelors killed this year, both of which were branded across the back, yielded skins weighing but 5 pounds each.

Percentage of seals killed.—The total number of seals driven on this island during the killing season was 3,260. Of these, 1,685, or 51 per cent, were killed.

The statistics of killings is submitted as Exhibit D.

Counts of seals.—A large number of harem counts were made by Major Clark and myself during the summer. The results of this work is appended as Exhibit E.

At the height of the season counts of all the bulls on the island were made. The results are as follows:

Count of bulls, St. George Island, 1906.

Rookery.	Bulls with harems.	Idle bulls, stationed	Quitters.	Total.
North	78	3	3	81
Staraya Artel	26	.....	2	26
Zapadni	34	3	3	37
East Cliffs	34	2	3	36
East Reef	16	.....	2	16
Little East	8	.....	.....	8
Total	196	8	13	204

Comparing this with the counts made last year, it will be seen that there is a decrease of 62 harems on this island. The decrease in the idle bulls is quite as startling. Last year there were 22 idle bulls in place on the rookeries. This year there are but 8—a loss of 63 per cent.

Of all the rookeries Little East shows the greatest falling off. Last year there were on this rookery 16 harems, 298 cows, and 415 pups. This year there are but 8 harems, 161 cows, and 239 pups.

Counts of pups.—The annual counts of live pups were made on July 29, 31, and August 1, and the results are as follows:

Date.	Rookery.	Live pups.	Dead pups.	Dead cows.
July 29	North	3,749	105	3
29	Staraya Artel	1,958	48	.....
31	East Cliffs	2,040	29	1
31	East Reef	967	12	.....
31	Little East	238	1	.....
Aug. 1	Zapadni	2,281	29	1
	Total	11,233	224	5

By reason of the broken character of the ground on East Cliffs and North rookeries it is impossible to make a very accurate count of the pups thereon. Whenever it was possible the pups were pulled out of the holes and from under the rocks, but there were places where they could not be reached, and I have no doubt that some were overlooked.

A comparison of the counts of this year with those of last show a decrease of 1,495 pups on this island.

The average harem, based on the count of live pups, is 58.4.

Rookery photographs.—Photographs of the rookeries from the various stations, old and new, have been taken. I have made 2 sets of velox prints from the negatives; 1 set I transmit herewith to you, the other is on file in this office. The negatives have been carefully packed and shipped to you at Washington.

Native earnings.—The earnings of the natives of this island for the season of 1906 are as follows:

456 blue-fox skins, at $5 each, and 11 white-fox skins, at $1 each	$2,291.00
1,940 sealskins, at 75 cents each	1,455.00
Total	3,746.00

A copy of the fox division I handed you in June. A copy of the seal division is herewith submitted as Exhibit F.

Expenditures, Government appropriation.—During the fiscal year ended June 30, 1906, I expended for native maintenance the sum of $5,219.65 from the amount of the Government appropriation allotted this island and have forwarded to the Department vouchers for that amount.

Change in prices.—I have been advised by the agent of the company of a change in price of the following commodities: Potatoes, from 3 cents per pound to 3½ cents per

pound; smoking tobacco, from 6 cents per ounce to 7½ cents per ounce; mustard and pepper, from 5 cents per ounce to 3¾ cents per ounce.

The quality of the smoking tobacco furnished this year is superior to that of last year.

Schooners.—On July 6 a schooner flying the flag of the Argentine Republic appeared off the village and then changing her course skirted the shore to the eastward, disappearing behind East Point. Several hours later she was again sighted headed to the northward. No attempt at landing by her was made. Armed guards were stationed on all the rookeries on this side of the island. The day following I rehabilitated the old guardhouse at East Rookery and have maintained a watch there ever since. This schooner was easily within 2 miles of the land from the time she was sighted until she passed East Point.

On July 26 a schooner sighted off East Rookery. She was hull down and did not come nearer.

On August 4 a Japanese schooner came within 400 yards of the village landing, dipped her flag and bore away toward East Rookery. This schooner I have made the subject of a special report.

In view of the concerted raid on St. Paul by the sealers this summer and our own experience with them here, I would strongly urge that more guns and ammunition be furnished this island. Also telephone material sufficient to connect East and Staraya Artel rookeries with Government house. Our present armament consists of 6 modern rifles and 6 old Springfields with about 300 rounds of ammunition for each. There are a few rifles among the natives, but they are mostly old and of little use. At least 20 more "Krags" are needed. The following amount of telephone material will be necessary to carry out the suggestion made above: Six miles galvanized telephone wire, 300 glass insulators with wooden brackets, 200 feet insulated copper wire, 3 sets telephone receivers and transmitters, and 1 dozen dry batteries.

Under the supposition that this material will be furnished, I shall at once collect such driftwood as I can find on the beaches that will be suitable for posts and construct the line. This done it will be but a day's work to string the wire.

Respectfully,

H. D. CHICHESTER,
Assistant Agent, in Charge St. George.

Mr. W. I. LEMBKEY,
Agent in Charge Seal Fisheries, Washington, D. C.

EXHIBIT A.

ST. GEORGE ISLAND, ALASKA, *July 6, 1906.*

Dr. L. A. NOYES,
Agent North American Commercial Company, St. George Island, Alaska.

SIR: I beg to call to your attention the fact that in the killing made by you to-day of seals driven from East, Staraya Artel, and North rookeries there were 14 skins varying in weight from 4 to 4¾ pounds. As the killing of seals of this class is a direct violation of section 8 of departmental instructions dated March 9, 1906, regulating the taking of seals on the Pribilof Islands, which provides that "no seals shall be killed having skins weighing less than 5 pounds or more than 8½ pounds," I have to request that in future killings you adopt such measures as will insure the taking of only such skins the weights of which will be within the limits set by the Department.

Very truly, yours,

H. D. CHICHESTER,
Assistant Agent, Department of Commerce and Labor,
In Charge of St. George Island.

[Inclosure 1.]

EXHIBIT B.—*Weights of sealskins taken on St. George Island, season of 1905–6.*

Date.	Rookery.	Weights (pounds).										
		3.	4¼.	4½.	4¾.	5.	5¼.	5½.	5¾.	6.	6¼.	6½.
1905.												
Oct. 19	East	1			1	1	1	19	16	22	15	19
19	Zapadni							3	1	1		2
27	Staraya Artel, North, and East.							11	4	1	4	3
						1	3	18	14	4	7	3
31	Zapadni									1		
Nov. 7	Staraya Artel							1	10	1	2	3
8	Zapadni									1		1
13	....do									1		
16	East						1	6	8	3	2	1
26	Staraya Artel and North							1	1	1		
1906.												
May 30	Zapadni							2				
June 8	....do							3				
11	North			1		2	1	3	3	5		3
14	Zapadni									1		
16, 21	Staraya Artel and North				1	4	4	2	2	6	5	8
	Died on drive									1		1
22	Zapadni							2		1		
25	Staraya Artel, North, and East.							2	3	2	6	5
27	Zapadni					4	9	14	10	17	3	7
30	Staraya Artel and East				2	15	20	20	15	33	17	35
July 5	Zapadni				3	7	2	12	4	13	5	10
6	Staraya Artel, North, and East.		3	4	7	12	13	33	25	50	16	30
10	....do				6	14	29	32	25	49	9	40
12	Zapadni				1	2	3	9	1	13	3	8
16	Staraya Artel and East	3½			1	6	19	12	18	25	19	28
19	Zapadni				4	17	10	8	4	13	5	3
21	Staraya Artel and East	1	5	9	7	38	25	35	25	30	5	12
25	Staraya Artel, East, and North.					6	5	15	18	37	4	25
27	Zapadni						1		2	1		
28	North					1	4	3	4	8	1	3
	Total	2	8	14	33	130	150	266	213	341	128	250

Date.	Rookery.	Weights (pounds).										
		6¾.	7.	7¼.	7½.	7¾.	8.	8¼.	8½.	8¾.	9.	9½.
1905.												
Oct. 19	East	13	12	4	2	5	2					
27	Staraya Artel, North, and East.	2	4									
		3	3	1	1				1			
Nov. 7	Staraya Artel	8	12	4								
16	East	2	1									
1906.												
June 11	North	1	2				1					
14	Zapadni					1			1			
16, 21	Staraya Artel and North	2	1	5	4		1					
	Died on drive	1		1								
25	Staraya Artel, North, and East.		3	5	2			1	1	1		
27	Zapadni	3	6		2		2		1			
30	Staraya Artel and East	5	20	12	15	1	2	2	3		1	1
July 5	Zapadni	3	8		1			2		1		
6	Staraya Artel, North, and East.	14	26	3	6		2	2	1			
10	....do	9	21	11	8	1	3					
12	Zapadni		5	2	1	1						
16	Staraya Artel and East	15	17	7	9	3	6	3	3		1	
19	Zapadni	1	3		2	1	1		1			
21	Staraya Artel and East	5	8	1	1		2		2			
25	Staraya Artel, East, and North.	8	19	3	8	1	5		2		1	
27	Zapadni	1			1							
28	North	1	2									
	Total	97	173	59	63	14	27	10	16	2	3	1

In addition to these there is the skin of one seal which died on the drive. It weighs 14¼ pounds.

[Inclosure 2.]

EXHIBIT C.—*Seals released from drives, St. George Island, season of 1906.*

Date.	Rookery.	Small.	Bulls.	Brand this year.	Brand across back.	Brand on head (iron).	Age. Four years.	Five years.	Six years.	Seven years.
1905.										
Oct. 19	East	419	9	20	.....	.....	46	16	4	.....
27	Staraya Artel and North	157	....	3	.....	.....	7	2	.....	.....
	Total	576	9	23	.....	.....	53	28	4	.....
1906.										
June 11	North	.....	....	.....	.....	.....	9	3	.....	.....
14	Zapadni	.....	....	.....	.....	2	4	3	.....	.....
16	North	.....	....	3	.....	3	24	3	2	.....
21	Staraya Artel and North	.....	....	24	1	3	20	26	22	2
22	Zapadni	3	....	18	.....	1	11	10	4	.....
25	Staraya Artel and East	14	....	56	2	.....	12	4	8	3
27	Zapadni	.....	2	46	.....	.....	15	9	15	3
30	Staraya Artel and East	25	2	143	.....	.....	25	11	5	2
July 5	Zapadni	17	....	29	.....	.....	3	2	4	.....
6	Staraya Artel, East, and North	42	....	42	.....	.....	10	.....	2	1
10	.....do	85	....	59	2	.....	14	3	2	2
12	Zapadni	17	....	27	.....	.....	5	.....	1	.....
16	Staraya Artel and East	69	....	32	.....	.....	5	1	1	.....
19	Zapadni	33	....	43	.....	.....	5	3	1	.....
21	Staraya Artel and East	163	....	52	2	.....	4	5	.....	.....
25	Staraya Artel, East, and North	250	....	44	.....	.....	1	6	1	.....
27	North and Zapadni	29	....	3	1	.....	3	.....	.....	.....
	Total	747	4	621	8	9	170	89	68	13

[Inclosure 3.]

EXHIBIT D.—*Statistics of killings, St. George Island, 1906.*

Date.	Rookery.	Animals killed.	Dismissed. Large.	Small.	Brand this year.	Brand on back (iron).	Brand on head (iron).	Total driven.	Per cent killed.
1905.									
June 11	North	22	12	.....	.....	.....	.....	34	64
16	Staraya Artel and North	45	29	.....	3	.....	3	80	56
25	Staraya Artel North and East	31	27	14	56	2	.....	130	23
27	Zapadni	78	44	.....	46	.....	.....	168	46
30	Staraya Artel East and North	219	45	25	143	.....	.....	432	50
July 5	Zapadni	71	9	17	29	.....	.....	126	56
6	Staraya Artel East and North	247	13	42	42	.....	.....	344	71
10	.....do	257	23	85	59	.....	.....	424	60
12	Zapadni	49	6	17	27	.....	.....	99	49
16	Staraya Artel and East	192	7	69	32	.....	.....	300	64
19	Zapadni	73	9	33	43	.....	.....	158	46
21	Staraya Artel and East	211	9	163	52	2	.....	437	48
25	Staraya Artel East and North	157	8	250	44	.....	.....	459	34
28	North and Zapadni	33	3	29	3	1	.....	69	47
	Total	1,685	244	744	579	5	3	3,260	51

[Inclosure 4.]

EXHIBIT E.—*Counts of rookeries, St. George Island, season of 1906.*

NORTH.

Date.	Bulls.	Quitters.	Harems.	Cows.
1906.				
April 30	1			
May 14	16	1		
May 19	22			
May 24	43	1		
May 29	50	2		
June 1	50			
June 3	55	2		
June 7	61	1		
June 10	65	2	1	1
June 14	68	1	4	4
June 17	69	1	11	11
June 19	71	1	16	19
June 21	70	3	14	63
June 24	70	1	38	100
June 28	79		60	425
June 30	79	1	62	661
July 2	77	2	67	1,024
July 5	80	3	72	1,636
July 9	81	1	77	2,399
July 12	81	1	78	2,920
July 14	81	3	78	2,430

STARAYA ARTEL.

May 15	5			
May 19	10			
May 29	14			
June 1	16			
June 21	23	2	7	12
July 13	26	2	26	[a]1,252

ZAPADNI.

May 17	12			
May 18	12			
May 24	14	3		
June 1	27			
June 2	28			
June 22	33		6	26
June 27	33	1	14	223
July 16	37	3	34	[a]1,547

EAST CLIFFS.

May 15	7			
May 19	10			
May 23	18	1		
June 1	27			
June 5	31	1		
June 8	31	2		
June 10	33	1	2	2
June 16	32	3	3	3
June 18	33	1	10	11
June 21	32		16	37
June 23	37		17	78
June 26	37	2	25	265
June 28	36	3	26	396
June 30	35	3	28	531
July 4	35	3	30	972
July 8	36	2	32	1,296
July 10	36	4	32	1,478
July 13	36	3	34	1,522

[a] Estimated.

EXHIBIT E.—*Counts of rookeries, St. George Island, season of 1906*—Continued.

EAST REEF.

Date.	Bulls.	Quitters.	Harems.	Cows.
May 15	4			
May 19	5			
May 23	7	1		
June 1	8			
June 5	8			
June 8	9	2		
June 10	11			
June 16	12	1		
June 18	10	2		
June 21	12	1	1	1
June 23	11		3	3
June 26	14		5	7
June 28	14		11	31
June 30	15		14	73
July 4	15		12	171
July 8	16		16	370
July 10	16	1	15	469
July 13	17	2	15	546
July 15	16	2	16	546
July 18	15		15	458

LITTLE EAST.

May 15	1			
May 19	5			
May 23	5	1		
June 1	8			
June 3	8			
June 5	8			
June 9	8			
June 11	8			
June 14	8			
June 16	8			
June 18	8			
June 21	8			
June 23	8		1	1
June 26	8		3	5
June 28	8		6	14
June 30	8		6	35
July 8	8		8	122
July 10	8		7	145
July 13	8		8	161
July 15	8		8	136
July 18	8		8	103

[Inclosure 5.]

Annual statement of fur seals killed on St. George Island, Alaska, during the year ended July 31, 1906.

Date.	Rookery.	Number of seals killed for natives' food.			Number of seals killed by lessees for skins.				Aggregate.		
		Large young seals.	Total.	Skins accepted by lessees.	Accepted (prime).	Rejected. Under size.	Rejected. Large.	Rejected. Total.	Skins accepted.	Skins rejected.	Total seals killed.
1905.											
Oct. 19	East	133	133	133					133		133
19	Zapadni watchmen	7	7	7					7		7
27	Staraya Artel and North	29	29	29					29		29
31	East	59	59	59					59		59
31	Zapadni watchmen	1	1	1					1		1
Nov. 7	Staraya Artel	41	41	41					41		41
8	Zapadni watchmen	2	2	2					2		2
13	....do	1	1	1					1		1
16	East Rookery	24	24	24					24		24
26	Staraya Artel and North	3	3	3					3		3
1 06.											
May 30	Zapadni watchmen	2	2	2					2		2
June 8	....do	3	3	3					3		3
11	North (drive for branding)				21	1		22	21	1	22
14	Zapadni watchmen	3	3	3					3		3
16	North and Staraya Artel (drive for branding)				44	1		45	44	1	45
21	North and Staraya Artel (road skins)	4	4	4					4		4
22	Zapadni watchmen	3	3	3					3		3
25	East, Staraya Artel, and North (drive for branding)				30		1	31	30	1	31
27	Zapadni				78			78	78		78
30	Staraya Artel and East				215	2	2	219	215	4	219
July 5	Zapadni				68	3		71	68	3	71
6	Staraya Artel, East, and North				233	14		247	233	14	247
10	....do				251	6		257	251	6	257
12	Zapadni				48	1		49	48	1	49
16	Staraya Artel and East				190	1	1	192	190	2	192
19	Zapadni and East				69	4		73	69	4	73
21	Staraya Artel and East				189	22		211	189	22	211
25	Staraya Artel, East, and North				156		1	157	156	1	157
27	Zapadni				6			6	6		6
28	North				27			27	27		27
	Total	315			1,625	55	5	1,685	1,940	[a] 60	2,000

[a] The 60 skins herein designated as rejected were taken by the lessee during this sealing season, and weigh under 5 pounds or over 8½ pounds. The shipment of such skins being forbidden, they are held here subject to instructions from the Department.

[Inclosure 6.]

Expenditure of Government appropriation, St. George Island, 1906.

Amount allotted St. George Island		$4,665.00
Amount allotted St. George Island by reduction in price of coal		625.00
Total		5,290.00

EXPENDITURES.

1905.		
July, vouchers 1 to 9, inclusive	$27.80	
August, vouchers 10 to 55, inclusive	236.65	
September, vouchers 56 to 160, inclusive	510.45	
October, vouchers 161 to 244, inclusive	423.75	
November, vouchers 245 to 326, inclusive	438.15	
December, vouchers 327 to 426, inclusive	509.95	
1906.		
January, vouchers 427 to 504, inclusive	400.60	
February, vouchers 505 to 581, inclusive	385.15	
March, vouchers 582 to 681, inclusive	530.55	
April, vouchers 682 to 735, inclusive	322.75	
May, vouchers 736 to 810, inclusive	377.10	
June, vouchers 811 to 912, inclusive	1,056.75	
Total		5,219.65
Amount unexpended		70.35

[Inclosure 7.]

EXHIBIT F.—*Seal division, St. George Island, August 4, 1906.*

By 1,940 sealskins, at 75 cents		$1,455.00
To 12 first-class men, at $65.40	$784.80	
To 8 second-class men, at $52.30	418.40	
To 4 third-class men, at $39.20	156.80	
To 2 special class men	75.00	
To 1,000 pounds pig feed	20.00	
Amount expended		1,455.00

FIRST CLASS.

1. Stepan Lekanof	65.40
2. Demetri Lestenkof	65.40
3. Mike Lestenkof	65.40
4. Nicoli Malavansky	65.40
5. George Merculif	65.40
6. Joseph Merculif	65.40
7. Nicolai Merculif	65.40
8. Andronic Philamonof	65.40
9. Gregory Philamonof	65.40
10. Simeon Philamonof	65.40
11. Peter Prokopief	65.40
12. Rev. Peter Kashavarof	65.40

SECOND CLASS.

1. Alexander Galanin	52.30
2. John Galanin	52.30
3. Walter Kashavarof	52.30
4. Peter Malavansky	52.30
5. Nicoli Nedarazof	52.30
6. Mike Shane	52.30
7. Gregory Swetzof	52.30
8. Manuel Zaharof	52.30

THIRD CLASS.

1. Anatoli Lekanof	$39.20
2. John Merculif	39.20
3. Marka Merculif	39.20
4. Demetri Philamonof	39.20

SPECIAL CLASS.

1. Stepan Lekanof, chief	40.00
2. Joseph Merculif, second chief	35.00

The division as above made is hereby approved on behalf of the natives of this island.

STEPAN LEKANOFF, *First Chief.*
JOSEPH MERCULIEFF, *Second Chief.*

I certify that the amounts indicated herein have been placed to the credit of the respective natives on the books of the North American Commercial Co.

THE NORTH AMERICAN COMMERCIAL COMPANY,
By DR. L. A. NOYES, *Agent.*

I certify that the above division was made by me after conference with the native chiefs.

H. D. CHICHESTER,
Assistant Agent, Department of Commerce and Labor,
In Charge St. George Island.

EXHIBIT 15.

ISLAND OF ST. GEORGE,
Bering Sea, Alaska, August 9, 1906.

This is to certify that 1,940 fur-seal skins have this day been shipped on board the North American Commercial Company's steamer *Homer*, consigned to the North American Commercial Company, San Francisco, Cal.

H. D. CHICHESTER,
Assistant Agent, Department of Commerce and Labor,
In Charge St. George Island.

Shipper's load and count.

A. DONALDSON, *Master Steamship Homer.*

PRELIMINARY REPORT OF JUNE 12, 1907.

[By W. I. LEMBKEY, Agent in Charge of Alaskan Seal Fisheries.]

ST. PAUL ISLAND, ALASKA, *June 12, 1907.*

SIR: I have the honor to report my arrival, on the 3d instant, on the Pribilof Islands.

Conditions on both islands are good. At both villages the births during the past year exceeded the deaths. I found both agents Judge and Chichester, on St. Paul and St. George, respectively, to be well, and to have administered affairs successfully. Agent Judge will remain on St. Paul another year. Agent Chichester and I will report in the fall for duty at the Department.

The fox catch on St. George last winter (366 blues and 8 whites), fell off nearly 100 from the catch of 1906, when 456 blues and 11 whites were taken. This decrease, however, was due more to an open winter (as was the last one), and the consequent presence of natural food, which kept foxes away from the traps, than to an actual diminution of the fox herd. No foxes were taken last winter on St. Paul, for the reason that only a few were found on that island, and none could be killed without the danger of the extermination of the species on that island.

No female seals have arrived yet on either island. The bulls are here, however, awaiting the arrival of the cows. Preliminary examination indicates that the decrease in bulls during the last winter was more moderate than usual, due to accessions of new bulls as the result of the reservation of marked males. In fact, certain rookeries already show an increase in bulls over last year. Among those present young bulls preponderate, with a minority of middle-aged males. No old bulls are present. The count of bulls which we will make at the height of the season probably will show only a slight decrease from the number present last year. There was found on the islands last fall a greatly increased number of nursing seal pups dying from starvation, as the result of the killing of their mothers by pelagic sealers. This indicates a heavy mortality in breeding females since last season.

Revenue cutters already have begun active patrol about the islands. The *Perry* at present is stationed at St. Paul, with the *Manning* at St. George. These stations will be alternated during the summer. Captain Munger, fleet captain, with his staff, is stationed at Unalaska, having arrived there on the *Perry* while I was at Dutch Harbor.

Upon the arrival at St. Paul on the 8th instant of the *Perry* on patrol, Captain Dunwoody notified me in writing of his intention to patrol the 60-mile limit, as well as the 3-mile territorial limit about the islands, and requested me to communicate with him on every arrival of the cutter, in order that he may be kept advised of the situation. At his request, I went aboard the *Perry* and arranged a code of special signals for use in communicating between the cutters on patrol and the agents on shore. The *Perry* makes a daily circuit

of the 3-mile limit about St. Paul, a steaming distance of over 40 miles, and is communicated with daily from shore by signals or otherwise.

No branding or killing of bachelors has occurred since my arrival, there being but few bachelors present as yet. I shall secure the quota of bachelors to be reserved for breeding before killing for skins.

Respectfully,

W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

Hon. L. O. MURRAY,
Assistant Secretary, Department of Commerce and Labor.

PRELIMINARY REPORT OF SEPTEMBER 9, 1907.

[By W. I. LEMBKEY, Agent in Charge of Alaskan Seal Fisheries.]

DEPARTMENT OF COMMERCE AND LABOR,
DIVISION OF ALASKAN FISHERIES,
Washington, September 9, 1907.

SIR: I have the honor to submit the following preliminary report of the administration of affairs on the Pribilof Islands, Alaska, reservation during the season ended July 31, 1907:

FUR SEALS KILLED.

The quota of 15,000 fur-seal skins for both islands was obtained.

The number of sealskins taken and shipped by the lessee of the sealing right follows: St. Paul, 12,384; St. George, 2,580; total, 14,964.

There were held on the islands during the season in question as having been taken contrary to the Department's regulations the following number of skins: St. Paul, 15; St. George, 20; total, 35.

These skins were either larger or smaller than the limit prescribed, and are now retained on the islands subject to further instructions.

CHANGE OF QUOTA.

The current regulations of the Department prescribed as the quotas for the separate islands 13,000 for St. Paul and 2,000 for St. George. By section 6, however, it was permitted, in case the number of young males hauling on St. George was so large as to lead the agent there to believe that a contemporaneous diminution existed in the seals hauling on St. Paul, to increase the quota of St. George by a number not exceeding 1,000.

The hauling grounds last season showed a condition exactly similar to that mentioned in the regulation above cited. The catch on St. Paul, up to the middle of July, 1907, fell nearly 2,000 below the number taken during the same period the previous year; while the killable seals were so plentiful on St. George as to allow the quota of 2,000 for that island to be taken practically on July 15. This having been reported to me by Agent Clark in several communications, and he having requested that the St. George quota be raised, accordingly, on July 17, I addressed a letter to him authorizing the taking on St. George of an additional number of 600 skins, at the same time reducing the St. Paul quota by that number. Captain Dunwoody, of the *Perry*, brought Major Clark's letter to me and returned to St. George with my reply within twenty-four hours—furnishing probably the quickest communication between the islands on record.

After reducing the St. Paul quota, however, killable seals began to pour in upon the hauling grounds of that island and its quota of

12,400 practically was secured by July 28, with three more days of sealing to spare. At the same time, the number hauling on St. George in nowise diminished and the increased quota on that island practically was secured by July 24, with a week of the sealing period yet to elapse. It is my judgment that had sealing been carried on to July 31, the limit of time fixed by law, at least 1,500 sealskins could have been secured in addition to those taken.

DECREASE IN BREEDING FEMALES.

Owing to the presence about the islands all summer of a large fleet of pelagic schooners, some of which were visible daily from land, counts of breeding seals beyond the enumerations necessary to arrive at an estimate of the number present, were omitted on St. Paul, where the greater number of seals find their habitat. From those counts made, however, it would appear that a large decrease in breeding cows has occurred since 1906. These estimates show that on St. Paul, at the end of the season of 1907, but 40,000 breeding cows were present as against 52,700 present in 1906, and 65,884 in 1905. On St. George 9,371 breeding cows are estimated for the past season of 1907, as against 11,457 in 1906. This decrease in breeding cows is due directly to pelagic sealing.

INCREASE IN BULLS.

Notwithstanding the decrease in breeding cows already noted, the condition of the rookeries this summer shows that the decrease in bulls, which has been constant for years past, has been checked. Indeed, an increase in bulls on St. George since last season actually occurred.

The counts of adult bulls on St. Paul in 1907 show 1,183 stationed bulls as against 1,244 in 1906—a decrease in stationed bulls of only 4 per cent, as contrasted with the 18 per cent decrease of the year previous. In addition to the stationed bulls, however, there were noted in 1907, 74 young bulls known as "quitters" (i. e., those running away at the approach of man), when only 41 were present in 1906. These "quitters" are 6 and 7 year olds that can serve cows, and which in many instances would not desert if they could obtain a cow or two. A comparison of the whole number of stationed bulls and "quitters" for the two years shows that St. Paul in 1907 is within 28 bulls of equaling the number present in 1906—an insignificant decrease when compared with the steady annual decreases averaging 20 per cent in the five years last passed. In addition to these, 100 young bulls were noted in 1907 hanging about the rookery water fronts on St. Paul, when not over 25 were seen the previous year, showing that, in spite of increased pelagic sealing and the steady falling off among breeding cows, the number of bulls on St. Paul practically increased in 1907.

On St. George, as already stated, an actual increase in stationed bulls occurred—221 in 1907 as against 208 in 1906. The "quitters" and "water bulls" on that island were not reported. This gratifying condition, so far as breeding bulls are concerned, is due directly to the regulations in force limiting killing on land, and demonstrates what could be done toward maintaining ideal conditions on the breeding rookeries were pelagic sealing abolished.

PELAGIC SEALING.

Pelagic sealing about the islands during the sealing season of 1907 was carried on more actively than in 1906. Notwithstanding this, no raids were made on any of the rookeries in 1907—due probably to the active patrol by the Revenue-Cutter Service—and no arrests were made on shore. One boat containing 3 Japanese from a pelagic schooner landed on St. Paul on July 18, claiming to have been shipwrecked. These men, on July 20, were delivered to the captain of the cutter *Perry*, who, at their request, put them on board the first pelagic schooner he fell in with.

Pelagic schooners were in sight from St. Paul Island almost daily during the summer. Their presence was so much a matter of course that after a week or two the guards at the various watch stations did not make a detailed report of the number seen unless some unusual incident occurred or the number was so large as to make the subject of special moment. On July 6, 12 schooners were apparent from St. Paul, while on July 19 there were in sight 23 schooners and at least 30 small boats, all operating within sight of land. Some of the small boats in the vicinity of Southwest Point were well within the 3-mile limit. On June 25 a landing was made on Otter Island by the crews of 2 small boats, who also fired a number of shots from shotguns in close proximity to that island. On July 25 three warning shots were fired wide by the native guard at Northeast Point at the crew of a small boat that approached within one-half mile of the rookery and which, when the warning was given, was standing directly in for Hutchinson Hill, where the greatest mass of seals is found. The shots made the boat turn hurriedly about and put for the open sea. Other instances occurred of pelagic sealing within the 3-mile limit which need not be recounted here.

The revenue cutter *Perry* on June 15 seized the *Miye Maru*, of Toba, Japan, for having 5 of her boats equipped with sealing paraphernalia within the 3-mile limit surrounding Otter Island. On or about July 2 the *Manning* seized 2 other Japanese schooners for having small boats within 3 miles of St. Paul Island with freshly killed seals aboard and a full equipment for sealing. The *Miye Maru* was released on order of Captain Munger at Unalaska on the ground of insufficient evidence. The 2 schooners seized by the *Manning* were held at Unalaska and their crews taken to Valdez for trial.

On St. George Island no instances of violation of our laws by pelagic schooners occurred, and but 2 schooners were seen from that island during the summer.

REVENUE-CUTTER PATROL.

The revenue-cutter patrol about the islands this summer was active and energetic, and by far the best in the history of the islands. There is no question that the captains in command used every effort to prevent landings and to capture such schooners as had boats within the 3-mile limit. Such violations of law of this character as did occur took place while the cutters were patrolling other portions of the islands, and can not in any sense be considered as due to any lack of vigilance on the part of the captains commanding the patrolling vessels.

RESERVATION OF MALE SEALS.

On the islands the reservation of 1,000 2-year-old and 1,000 3-year-old male seals for breeding purposes was made as usual in the proportion of 800 of each on St. Paul and 200 of each on St. George. This was accomplished by clipping the fur off the head of each seal so reserved by means of sheep shears, the mark thus made assuring the exemption of the animal when it appeared in the killing drives during the summer.

BLUE FOXES.

On St. Paul no foxes were taken during the winter of 1906–7. On St. George, 366 blue and 8 white foxes were taken and the skins delivered to the North American Commercial Company, the latter paying therefor the stipulated price of $5 for each blue and $1 for each white fox skin. The fox catch of the last season shows a falling off from that of the season preceding of approximately 90 skins, which is due, according to Agent Chichester, more to climatic conditions than to an actual decrease in the fox herd.

CONDITION OF NATIVES.

During the past year the general health of the natives has been good. The native population of the two islands on July 1, 1907, numbered 263, of which St. Paul had 170 and St. George 93, an increase over the previous annual census of 4 individuals.

A more detailed report of the season's work is being prepared and will be submitted at as early a date as possible.

Respectfully,

W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

To Hon. OSCAR S. STRAUS,
Secretary of Commerce and Labor.

ANNUAL REPORT SEAL FISHERIES OF ALASKA.

[By W. I. LEMBKEY, Agent in Charge of Alaskan Seal Fisheries.]

DEPARTMENT OF COMMERCE AND LABOR,
DIVISION OF ALASKAN FISHERIES,
Washington, December 1, 1907.

SIR: I have the honor to submit the following report of the administration of affairs on the Pribilof Islands, Alaska, reservation during the season of 1907:

MARKING OF BACHELORS.

The first marking of bachelors on St. Paul under instruction from the Department contained in its letter to me of April 13, 1907, was made on June 19 from Reef Rookery. On that date 332 young males were marked—211 3-year-olds and 121 2-year-olds. The method of marking was with sheep shears, with which a patch of hair on the head of each seal was clipped off. On June 24 another drive was made at Zapadni, from which 141 2-year and 138 3-year olds were marked. On June 25 another drive of probably 1,200 seals was made from Reef, from which 424 2-year and 320 3-year olds were marked. From this drive, the seals that were turned away without marking were almost entirely 4 and 5 year olds with a small percentage of 6-year-olds. On June 28 the final drive to obtain the required quota of reserved bachelors was made at Northeast Point, where 114 2-year and 131 3-year olds were marked, filling the required number of 800 for each class on St. Paul Island.

The efficacy of the regulations is apparent in the presence in the drive made June 25 of the large number of half bulls noted above. These seals are the result of the saving in previous years of killable bachelors arising from restrictions placed upon killing by the Department, and being now past the killable age will mature as breeding bulls unless they fall victims to pelagic sealing.

The mark made on the animal by shearing off a portion of the hair and fur on top of the head remains readily apparent during the entire summer. In the fall, after the new hair has fully grown, of course this mark disappears, but the killing of the animal is then prevented by restrictions on the sizes of seals selected for food.

On St. George the quota of 200 of each of the classes named to be branded was obtained before any killing by the lessee was made for skins. On this island sheep shears were used as on St. Paul. The mark on the seals' heads on both islands was similar in appearance and therefore it was not possible to note the volume of migration between the islands as it was in 1904 when shears were used only on St. George and hot irons on St. Paul.

KILLING OF SEALS.

The feature of interest in connection with the killing of seals during the past summer was the unusually large number of bachelors hauling on St. George during the entire summer, coincident with their scarcity on St. Paul during the first half of the season and a rush of 2-year-olds at the latter half. The quota (15,000) was obtained before the legal end of the lessee's season—on St. George on July 24 and on St. Paul July 28—and it is believed, had sealing been permitted until July 31, at least 1,500 skins additional could have been taken.

Killing by the lessee began immediately after the completion of the marking of bachelors. Owing to the comparatively large number of seals frequenting St. George the quota for the island fixed by the regulations, namely 2,000, was obtained practically by July 15, while the catch on St. Paul up to July 15 was nearly 2,000 below what it was at the same time the previous year. The abundance of seals on St. George having been reported to me by Major Clark with a request that the quota on that island be increased, accordingly, on July 17, I addressed a letter to him, authorizing the taking on St. George of an additional number of 600 skins, by virtue of section 6 of the Department's current instructions, at the same time reducing the St. Paul quota by that number.

This action was taken on the assumption that by reason of the scarcity of killables on St. Paul the quota for that island would not be obtained. However, shortly after the reduction stated, killable seals began pouring in upon the hauling grounds of St. Paul, and as mentioned before the quota for that island was obtained practically on July 28.

NUMBER OF DRIVES.

On St. Paul during the lessee's sealing season 29 drives were made by it for skins, in which the percentage of seals killed to the whole number driven was 68 per cent, varying in several drives from a minimum of 30 to a maximum of 85 per cent. Three drives were made in which the percentage was between 80 and 85; 9 in which the percentage killed was over 70 and under 80; 8 in which the number killed was over 60 and under 70 per cent; 5 in which the killed was over 50 and under 60; 3 drives in which the killed amounted to under 50 and over 40 per cent, and 1 drive in which only 30 per cent was killed.

On St. Paul on July 15 a drive was made from Northeast Point, where the number killed was 1,224, or 75 per cent of all driven; while on July 22, 1,179 skins were taken from Reef and Gorbatch, amounting to 77 per cent of the whole number driven. This is of interest from the fact that not for several years has a drive been made on the islands in which over 1,000 skins were taken.

On St. George, during the season of 1907, 15 drives were made by the lessee, exclusive of 1 made on July 25 by the watchmen at Zapadni and East Rookery, in which an average of 138 skins for each drive was made. During the whole season the seals killed on St. George averaged 44 per cent of the whole number driven.

DISMISSALS FROM DRIVES.

During the season of 1907 on St. Paul there were 1,537 small and 2,075 large dismissals from drives, not including 1,533 dismissals of marked bachelors. The large seals dismissed since June 28, when the first drive for skins was made by the lessee, included 697 4-year-olds, 454 5-year-olds, 300 6-year-olds, 79 7-year-olds, and 6 adults.

It is noteworthy that the greatest number of large rejections consisted of 4-year-olds (697), all prime skins, which undoubtedly would have been killed by the lessee but for the prohibition contained in the current regulations. In fact, some of the 5-year-olds had prime skins which would have brought a high price in London.

The marked bachelors dismissed consisted of 869 2-year-olds and 664 3-year-olds. While it is known from the statistics obtained in prior years that the 2-year-olds hauled more frequently than the 3-year-olds, those for 1907 show that the 2-year-olds hauled in that season less often than heretofore. The number of 2-year-olds reserved by marking on St. Paul each season is 800, and a similar number of 3-year-olds. The rejections in marked bachelors for the four years 1904 to 1907 follow:

Year.	Two years.	Three years.
1904	1,320	568
1905	1,005	511
1906	1,012	693
1907	869	664

It can be seen that in 1907 less of the marked 2-year-olds returned than in any other year since this regulation was adopted. This same peculiarity was noted also in the hauling of killable bachelors not marked—that is to say, the killables on St. Paul hauled very slowly until the middle of July, when they came in in such numbers as to furnish the island's quota and to afford two drives in which the number of skins taken was over 1,000 in each case. This taken in connection with the fact that an unusually large number of bachelors hauled on St. George this summer indicates that some unusual condition existed which affected the hauling of bachelor seals on the islands.

What this condition was is conjectural. Whether it was some peculiar attribute of weather existing this summer, or some other factor which made the ocean more desirable for the seals than the hauling grounds, can not be told. Perhaps the presence about St. Paul Island of a large fleet of pelagic schooners operating at an unusually early date close to shore, harassing not only the females as they went back and forth to feed, but the bachelors as they wandered without apparent object about the shores of the island, had the effect of changing to a degree their usual hauling habits. I rather incline to believe the latter cause was potent, in view of the fact that St. George, which was practically free from pelagic vessels in its close vicinity, had more bachelors last year than in its history for some years past.

SUFFICIENCY OF RESERVATION FOR BREEDERS.

It can be seen from the foregoing data that in addition to the 1,600 2 and 3 year olds marked and released on St. Paul there were over 1,500 dismissals on that island of small seals released from the killing

field. It can be shown that these 1,500 dismissals represent practically as many animals. We have shown, therefore, that in addition to those animals not driven at all there were at least 3,000 young males released from St. Paul Island alone from which to recruit candidates for vacancies in the present supply of breeding bulls. As our statistics show that in 1907 only 1,122 adult bulls were required on St. Paul to serve cows, it is readily apparent that this year's reservation is ample, not only to preserve the numbers of the present supply of bulls, but actually to increase it.

ENUMERATION OF SEAL LIFE.

The counting of seals outside of that necessary to determine the number of harems on the rookeries and the size of an average harem on either island ceased upon the appearance in June of pelagic vessels about the islands.

Immediately after my arrival, however, and before schooners were sighted off the island I made as careful an examination as possible of the bulls stationed before the arrival of the cows. In this examination no aged bulls were found. The greater proportion of those bulls present were young. Of 56 bulls found on Lukanin and Ketovi on June 3, 18 were middle-aged; the remainder were young—8 and 9 year olds. On examination made by Mr. Judge on June 5, Gorbatch and Ardiguen showed 60 bulls present, none of which were aged.

After June 18, however, schooners appeared about the island and all intermediate counting was discontinued. On July 13, 16 harems and idle bulls on the whole island were carefully counted by Mr. Judge and myself and a party of native assistants, while at the end of July the pups on Ketovi were counted for the purpose of ascertaining an average harem to be used as a basis for estimating the whole number of seals on the island. Beyond these counts it was thought unwise to further disturb the rookeries by counting.

NUMBER OF BULLS PRESENT.

From the count made on St. Paul on July 15, the following number of bulls was found:

Rookery.	Harems.	Idle.	Quitters.	Water bulls.
Ketovi	46	5	.....	8
Amphitheater	9	2	1	.....
Lukanin	34	1	1	5
Lagoon	15	.....	1	1
Tolstoi Cliffs	30	1	3	2
Tolstoi	99	5	5	12
Northeast Point	247	21	18	20
Little Polovina	14	.....	1	4
Polovina Cliffs	24	1	3	3
Polovina	33	2	6	8
Gorbatch Cliffs	6	.....	2	.....
Gorbatch	105	3	7	6
Reef	216	9	14	16
Zapadni	155	9	9	10
Little Zapadni	68	2	1	4
Zapadni Reef	10	.....	2	1
Ardiguen	11	.....	.....	.....
Total 1907	1,122	61	74	100
Total 1906	1,205	39	41	.....

It can be seen from the above table that on St. Paul there was a decrease in harems in the period from 1906 to 1907 of 83, or 6 per cent. There was an increase, however, of 22 idle bulls and 33 "quitters," or young bulls full grown which, withal, will retreat when approached by man. In addition to these, 100 bulls were noted along the water front of the rookeries, looking for openings through which they might gain a footing among the cows.

While there was, as already stated, a decrease of 6 per cent in the actual number of harems in 1907, there was an increase in the number of idle bulls and quitters, making the total decrease in full grown bulls, harem masters, idle, and "quitters" 28, or 2 per cent. When it is considered that the annual decrease for several years past has been in the neighborhood of 20 per cent, the insignificance of the 2 per cent decrease of 1907 is apparent. When we consider further the number of water bulls on the rookery fronts, which as the season closes gradually force their way into the rookeries and obtain cows, we can see that there was an actual increase in the total of bulls of all classes on the rookeries on St. Paul.

On St. George the condition as regards bulls was found to be even better than on St. Paul, as an increase was noted in the number of harem bulls actually stationed. In 1906 there was a total of 208 bulls stationed, harem masters and idle, while in 1907 there were 221, an increase of 13 bulls, not counting quitters or the water bulls that flank the rookery from the sea.

This result is gratifying, as it is, undoubtedly, the effect of the first reservation (in 1904) of 2 and 3 year old bachelors, coupled with the abstention from killing of 4 and 5 year old half bulls, which latter afford in many instances valuable skins and which, but for the prohibition of the Department, would have been killed by the lessee.

The 3-year-olds reserved in 1904 would be 4 years old in 1905, 5 years old in 1906, and 6 years old in 1907. This class of young males is too young to make full rookery bulls and would, in 1907, be apparent only as hangers-on about the rookeries, either in the rear or on the water front. That numbers of young bulls were observed in 1907 in the localities stated is good evidence that the 3-year-old reservation of 1904 is present in good numbers and will be stationed on the breeding grounds at the proper time. But the young adult bulls found on the rookeries in 1907 in sufficient numbers to offset the yearly decrease in breeding bulls, and which were at least 7 years old, could not have come from the 3-year-olds of 1904, as they at this time could be only 6 years old. They therefore must have come from the 4 and 5 year olds already mentioned, the killing of which in 1904 was first prohibited. There must have been released enough of these to of themselves meet the annual decrease and to even increase the number of bulls present on St. George.

This being the case, a further increase in harem masters may be expected on the rookeries in 1908, when the regular reservation of 1,000 3-year-olds branded with a hot iron in 1904 may be expected on the rookeries. In fact, several of these, undoubtedly 4 or 5 year olds when they were branded, were observed on the rookeries with cows last season. It is not too much to believe that a material increase in bulls will be found on the rookeries in 1908, and that annually thereafter this increase will be augmented by the accession of the reservation le four years previously.

It is regretted that this reservation of young male life for future breeders contains no remedy for the general decrease in seal life which has been constant for two decades, and which furnishes the assurance of a speedy commercial extinction of the animal. It has been claimed that the primary cause of this decrease has been the lack of virile adult bulls, which, because of this scarcity, failed to fecundate all the cows, and thereby lessened the number of pups born annually. If this theory be correct, the increase in adult bulls in 1907 will result in an increase in the number of pups born in 1908—in other words, that the rookeries from this time on will show a condition of increase. If, however, no increase in pups be found, this theory must fall. It is almost unnecessary to state my belief that no increase in pups will be encountered in 1908.

DECREASE IN BREEDING COWS.

While the number of bulls on the rookeries has increased as the result of the application of regulations of the Department, the number of breeding cows has decreased as the result of their being killed at sea by pelagic hunters.

It has been proven and is thoroughly understood that the greater number of seals in the pelagic catch in Bering Sea are breeding females. This is shown by the statistics of the catches of both the Canadian and the American sealing fleets, when the latter was allowed by our law to operate. The average proportion of females in the Bering Sea catches is in the neighborhood of 75 per cent. This is due to the fact that the breeding cows are constantly passing to and from the rookeries and the feeding grounds, a distance ranging from 100 to 250 miles, and while on these journeys, and especially while sleeping on the water digesting a mass of fish eaten, they are fair prey for the pelagic hunters. The males, on the contrary, are either stationed on the rookeries or alternate between the hauling grounds and the sea in the immediate vicinity. Numbers of them do not feed at all during the sealing season; the others feed less frequently than the females.

The large pelagic fleet that has surrounded the islands for years past, and notably in the last two, have been more destructive, for the reasons stated, to the breeding females, and this class of seals has diminished steadily and will diminish so long as the fleet is present and active.

COUNTS OMITTED.

The regulations of the Department give the agents authority to curtail or to omit altogether the counting of seals on the breeding rookeries, the discretion to be exercised in case of unusual activity on the part of the pelagic schooners.

The pelagic fleet began operations this year sooner than heretofore, vessels entering the sea near June 1, and continuing daily until October. For this reason, as soon as the first schooner was seized (June 15, by the *Perry*), the intermediate daily counting of cows and bulls on the rookeries ceased, as daily disturbance of the rookeries was thought to keep more seals in the water than under normal conditions, and thereby to further increase the pelagic catch.

So also when it became necessary to count live pups near August 1, to establish a basis for computing an average harem, only the pups on Ketovi were counted, instead of probably one-third of all on the island, as heretofore. The counting of these pups involves the driving into the water of all adult seals on the rookery, and it was desirable that this work should be accomplished by the least possible disturbance of the breeding grounds. While, of course, cows are traveling back and forth from the rookeries to the feeding grounds, under ordinary circumstances, there is always a large number of cows on shore. The driving off of the whole rookery en masse would necessarily send into the water those cows which otherwise would remain on shore, and would enormously increase their chances of capture by the fleet.

Ketovi, however, is a rookery which contains harems of a generally uniform size, having neither the large conglomerate masses of cows in which the harems can not be distinguished one from another nor a succession of very small harems, such as can be found elsewhere strung along a rocky beach line. It can therefore fairly be considered as practically typical of an average mass of seals and in this sense serves very well for the purpose of ascertaining the size of an average harem.

A careful count of all the pups on Ketovi, living and dead, on August 2, 1907, by Mr. Judge, assisted by a corps of natives, showed the following:

	Live pups.	Dead pups.
Ketovi	1,607	43
Amphitheater	303	6
Total	1,910	49

The number of harems on this area as ascertained by the count made near July 15 was 46 on Ketovi and 9 on Amphitheater, or 55 on the entire area. By dividing this number into 1,959, which represents the whole number of pups born in this space in 1907, we obtain an average harem of 35.61 cows, since the whole number of adult cows present is represented by the whole number of pups born.

The whole number of harems on the island ascertained by careful count on or about July 15, 1907, was 1,122. Applying the average harem of 35.61 to this number we have a total of 39,954 breeding cows estimated for the island of St. Paul for 1907.

This, of course, is an estimate, and nothing more is claimed for it. The method used has been the one employed since 1896, and the result is near enough to the actual conditions to give a reliable idea of increase or decrease in seals present. The number actually present will vary in a small degree from that estimated to be present, but that is the drawback in all estimations. We are certain that the counts upon which these estimates are based were made with all possible care and that greater accuracy could not be obtained with the methods used. These figures showing the number of breeding cows on St. Paul are exclusive of the seals on Sea Lion Rock, where probably 45 harems and approximately 1,500 cows were present at the height of the season. This islet lies about one-third of a mile from Reef

Rookery, St. Paul, and was not visited when harems were counted, for the reason that the weather conditions made it unfavorable for landing there.

On St. George, usually, all the live pups found on the rookeries have been actually counted. This year, however, because of the increased activity in pelagic sealing, already noted, counting of the entire number of pups was abandoned, and following the method employed on St. Paul only those on North Rookery and Little East were enumerated. The number of bulls with cows, of course, was ascertained at the height of the season.

On the two St. George rookeries on which pups were counted the following number of harems was found on July 14, 1907: North, 81; Little East, 7; total, 88.

The pups found on these rookeries by actual count were:

Rookery.	Live.	Dead.
North	4,108	77
Little East	200	2
Total	4,308	79

We can see from this that on an area on which there were 88 harems there were born 4,387 pups, 79 of which were dead. This would indicate an average harem of 49.85. As there were 188 harems found on the entire island, the application to this number of the average harem of 49.85 would show a total of 9,371 pups born on the island, which number also represents the number of breeding cows.

As the number of pups actually counted on St. George represents nearly half of all those found on the island, this average must be considered as very nearly representing actual conditions, and the computation made therefrom very close to the number actually present.

Like Ketovi, on St. Paul, North Rookery is typical in its character, containing a succession of good-sized harems without either a mass or a large number of small harems, and furnishes facilities beyond those offered by other rookeries for arriving at a fair average harem.

By the methods outlined we have in 1907 the following number of breeding cows and pups on both islands, including Sea Lion Rock: St. Paul, 39,954; Sea Lion Rock, 1,500; St. George, 9,371; total, 50,825.

DECREASE ON ST. GEORGE SINCE 1906.

On St. Paul in 1906, because of the activity displayed in pelagic sealing, no count of pups was made, for which reason it is impossible to make a comparison between the number of cows present in that year and in 1907. On St. George, however, in 1906, all pups on the island were counted, as has been the practice for years past. Because of the full count in 1906 and the counting of nearly half the entire number in 1907 we are able to make an estimate for St. George of the rate of decrease in breeding females.

The counts for the two years follows: 1906, 11,457; 1907, 9,371; decrease, 2,086.

This shows a decrease on St. George in one year of 2,086 breeding cows, or over 18 per cent. Because of the fact that in 1907 the cows

on only 2 rookeries were counted, we have not the means at hand for showing where this decrease occurred. There is however a complete count for the two years on North and Little East rookeries, and a comparison of the figures for these two years will prove interesting.

Rookery	1906.	1907.	Increase (+) or decrease (−).
North	3,854	4,185	+331
Little East	220	183	*−37

* 17 per cent.

These counts were made by Agent Chichester in 1906 and by Agent Clark in 1907. Because of the extremely rough character of North Rookery and the numerous hiding places existing there in which pups secrete themselves and from which they have to be dragged by hand, counts of pups on this rookery must necessarily omit a few that are in unaccessible places. With the most careful counting a variation of a hundred or two on this rookery would, from the nature of things, be nothing extraordinary.

The counts of this rookery North in 1906 and 1907 show an increase in the latter year of 331 pups. In view of the difficulties of counting enumerated it may be safe to conclude simply that no material decrease, if any, has occurred on this rookery during the year. To lay more stress upon this apparent increase would be unsafe.

The count discloses, however, a decrease of 15 per cent on Little East Rookery, which is open enough to insure an accurate count on a small number of pups such as is found there. This shows the same condition that has been noted in years past on St. Paul—namely, that by reason of their gregarious instincts the cows continue to frequent the center or more massed portions of a rookery, abandoning the thinly settled ends.

We must conclude from this that the decrease in breeding cows, which undoubtedly has occurred, is apparent on the small thinly settled rookery areas, leaving the denser portions to suffer in much less degree.

PERCENTAGE OF DECREASE ON BOTH ISLANDS.

In 1906, because of the activity in pelagic sealing in the close vicinity of St. Paul, counts of pups in the various rookeries of that island were not made for the first time in [illegible] years. For this reason accurate data is not at hand to show the number of seals present that year upon which to base a comparison with former years. From the counts of cows, however, made during the season, it was ascertained that a decrease had occurred on that island since the previous year of about 20 per cent, and that by this computation there were, in 1906, 52,700 breeding cows present on the St. Paul rookeries. On St. George in 1906 an actual count disclosed the presence of 11,457 newly born pups, indicating an equal number of breeding cows. In 1905 [illegible] cows were counted on the same breeding area on St. George, showing that between 1905 and 1906 a decrease of only 11 per cent in breeding cows had occurred on St. George, while

an approximated decrease of 20 per cent had occurred during the same period on St. Paul.

Between 1906 and 1907 the figures herein given show a decrease of 24 per cent in breeding cows on St. Paul and 18 per cent on St. George.

This may be tabulated for the sake of additional clarity:

Island.	Decrease in cows.	
	1906.	1907.
	Per cent.	*Per cent.*
St. Paul	20	24
St. George	11	18

While there is some difference in the methods of computation of the number of breeding cows in 1906 and 1907, the fact that the rate of decrease in 1907 was greater than in 1906 is perfectly logical when it is considered that the first heavy assault of the Japanese pelagic fleet occurred in the summer of 1906 and the effect of their operations must be apparent in a greater loss in cows than occurred the year previous (1905–6). It is also logical to agree that this loss fell with greater effect upon the St. Paul cows, since the fleet surrounded that island during the whole summer of 1906, while at St. George only 3 pelagic schooners were sighted from land during that whole season. Of course, it must not be claimed that the herds on the two islands are distinct or that they have separate feeding grounds. They undoubtedly mingle on the feeding banks and there is also more or less of a migration between the two islands. But we must suppose a disposition to return to a certain fixed spot among the cows, which we know to exist among the adult bulls, and as we know that, having left a pup on a rookery, a cow will return to it, we can see that a direct assault on the breeding cows on St. Paul carried on within sight of land or close to its shores must be more fatal to the cows frequenting that island as they pass to and fro to feed than upon the St. George animals, whose route in traveling to the feeding banks probably carried them away from the fleet hovering around St. Paul.

In truth, I am surprised to find the rate of decrease on the two islands so little different. I was prepared, for the reasons stated, to expect a much larger decrease on St. Paul and a smaller one on St. George. The fact that they exhibited a difference of only 6 per cent in the rate of decrease between 1906 and 1907 shows that the effects of pelagic sealing are nearly equal on both islands, notwithstanding that St. Paul was practically surrounded by pelagic vessels during the whole summer.

While there are no means at the present time of substantiating any conclusion of that nature, it could happen that the bulk of the Japanese catch was obtained from St. Paul, while the St. George seals contributed in larger degree than their kin on the other island to the catch of the Canadian fleet that operated in 1906 and 1907 mainly to the eastward and about 75 miles away from the islands.

Why St. George seals should suffer heavily from pelagic sealers operating within a few miles of St. Paul, unless the seals from the two islands are commingling profusely in the close vicinity of the latter island, is an interesting question.

COMPARISON OF AVERAGE HAREMS ON TWO ISLANDS.

We have seen that, in 1907, the average harem on St. George was 49.85, while that of St. Paul was 35.61. This difference in the average harem has been observed in past years, that of St. George always being larger than St. Paul.

This would show that either St. George presents conditions more favorable to the cows, thereby attracting thither a larger number in proportion than its neighbor, or that St. Paul for some reason or other attracts more bulls in proportion than St. George. As to the cause of this condition we can only theorize, but whatever the cause it is certain that there is, and has been, a difference between the proportion of cows to bulls on the two islands—that there are more cows to the bull on St. George than on St. Paul.

ESTIMATED NUMBER IN WHOLE HERD.

For various reasons it is desirable to ascertain, as nearly as possible, the number of individuals in the whole herd of seals, and, as the seals are divided by age and sex into various classes, to determine as well the number of individuals in each class. As stated before, it was not wise to disturb the whole mass of breeding cows by counting, in view of the activity in pelagic sealing, and only an estimate of their number was made. There are also other classes, such as yearlings which appear late in the season and mingle with the breeding seals, and bachelors and half bulls which are fluctuating and irregular in their hauling habits, the numbers in which can not be counted. For these reasons it is necessary to simply estimate these latter classes of seals in as careful a manner as possible, basing the estimate on such facts as are at hand relating to their numbers.

ESTIMATE OF HALF BULLS.

In estimating the half bulls we find that the table of rejections of seals from the drives made for skins contains a record of a considerable number of large half-grown male seals, consisting of those dismissed from the killing drives during the summer. In addition to these there were large numbers of the same kind of seals turned away from the drives made for marking reserved bachelors before the killing season began, of which no record was made, as the time of every one was fully occupied in marking the bachelors.

The record of dismissals from the killing drives shows 1,536 large young seals turned away from the drives on St. Paul during the summer, all but 85 of which being between the ages of 4 and 6 years, both inclusive. We know from the number of 3-year-old reserved seals dismissed from drives in 1907 that nearly 20 per cent of those so marked failed to return. If this percentage exists among 3-year-old males, it must prevail to even a greater extent among older males which have not reached the condition of full-grown bulls, but which are nearer that status than 3-year-olds. We must believe, therefore, that this number of 1,536 large seals should be increased by more than 20 per cent to obtain a fair estimate of the size of that class.

In 1904, in constructing an estimate of this kind, I increased the number of half bulls dismissed by 50 per cent, which I believe is conservative. By applying this method we would have on August 1, 1907, on St. Paul Island 2,304 half bulls between the ages of 4 and 6 years, both inclusive.

On St. George in 1907, 771 large seals were dismissed between the ages of 4 and 6 years, both inclusive. Increasing this by 50 per cent in the manner in which the St. Paul rejections were treated gives us a total of 1,155 half bulls on St. George in 1907. For the two islands there would be an estimated total of 3,459 half bulls in 1907.

ESTIMATE OF 2-YEAR-OLDS AND YEARLINGS.

Owing to the fact that the yearlings of both sexes and the 2-year-old cows haul among the breeding seals and young on the rookeries, and are so intermingled therewith that counting them would be an impossibility, even should all be found on land at the same time, there is practically no method of arriving at their numbers save that of following the pups born in preceding years down to the time when they become yearlings or 2-year-olds, applying at the same time such losses as they may be expected to suffer from natural mortality and pelagic sealing. In an estimate, therefore, of the yearlings and 2-year-olds present in 1907, we must proceed on the lines indicated above.

The loss from natural mortality which pups suffer on their initial migrations is quite heavy, owing to the inexperience of the young animals in obtaining food, and to the further fact that being slow and unaccomplished swimmers they must fall prey to their natural enemies more easily than the older animals, which have the power to move rapidly through the water and, therefore, the greater ability to escape their pursuers. A death rate of 50 per cent among pups on their initial migration is, therefore, a reasonable estimate.

In the case of yearlings, on their second migrations, from which they return to the rookeries as 2-year-olds, the loss from natural causes is less than that suffered by the pups, but, of necessity, must be greater than that of the great mass of adult seals. These migrating yearlings are still immature animals, wanting in experience and physique to properly cope with or escape from their natural enemies. In their case a death rate of 30 per cent has been considered proper and may be used here.

We have next to consider what loss is sustained by migrating pups and yearlings from pelagic sealing. No information on this point could be obtained from the logbooks of the pelagic sealers, as they make no classification of seals captured save as regards sex. The sealskins taken by them, however, are shipped to London, where, before sale, they are classified in sizes by Lampson & Co., the factors who effect the sale by auction of all the pelagic catch. By an analysis of this classification we are able to determine with reasonable accuracy how many yearlings and 2-year-olds are contained in the catch.

The catalogue furnished by Lampson & Co. covering the catch for 1907 of the British Columbian sealing fleet shows 8,607 sealskins exposed for sale, classified as regards the size of skin as follows:

Wigs	103
Middlings	179
Middlings and smalls	1,354
Smalls	2,587
Large pups	2,103
Middling pups	1,259
Small pups	723
Extra small pups	233
Extra extra small pups	11
Black pups	55
Total	8,607

The average weight of these sizes has been determined by Lampson & Co., as well as by the agents on the islands (see Senate Document No. 98, Fifty-ninth Congress, first session, p. 88); also proceedings Fur Seal Arbitration, volume 8, pp. 916 et seq.). As certain of the sizes of skins do not occur at all in the islands catch, the weights as given by Lampson & Co., are here used, although they do not correspond in every respect with our idea of the average weights of seals of a given age. Opposite these weights I have placed the age of the animals from which they were taken, based on my judgment after having assisted in weighing thousands of skins:

	Weight.		Age.
	Lbs.	*Oz.*	*Years.*
Large wigs	34	0	.....
Small wigs	23	0	.....
Middlings	14	6	6
Middlings and smalls	11	3	5
Smalls	9	8	4
Large pups	8	2	3
Middling pups	6	12	
Small pups	5	10	2
Extra small pups	4	11	
Extra extra small pups	3	13	1
Gray pups	3	0	(a)

a Four to five months.

The ages of seals of a given weight marked in the above table are based on an average and are necessarily only approximate. They are stated here solely for the purpose in hand and not as an effort on my part to fix the correct weight of the skins of seals of a certain age. As it is, however, it is close enough to construct an estimate such as we desire.

Of the 8,607 sealskins exposed for sale in London in December, 1907, as the pelagic catch for that year, according to the table given we can see that only 11 skins marked "extra extra small pups" are found. These can not be gray pups because these latter enjoy a separate classification. They can be only yearlings, and they represent only one-tenth of 1 per cent of the entire pelagic catch. It is seen thus that yearlings really represent such an inconsiderable portion of the catch of the sealing schooners that no deduction for the effects of sea killing need be made in an estimate of their number.

This is readily explainable. They can not be taken in the sea during the summer of their birth for the very plain reason that they are on land at that time, or have not yet learned to swim beyond

the borders of the rookeries on which they are born. When afterwards in the late fall they do take to the sea for their first migration, pelagic sealing has ceased for the year. They do not encounter it again until the following spring.

In the spring, however, the fleet follows the main body of the herd, composed of adult seals, which are accomplished swimmers and which for this reason have left the slow-moving yearlings far behind. This is indicated plainly by the fact of the arrival of the yearlings at the rookeries six weeks later than the main body of the herd.

Scattered over the eastern portion of the North Pacific, far behind the adults, these youngsters stand in little danger of capture by the sea hunters, who are always in advance of them. That few are so captured is shown by the analysis of the pelagic catch contained in the foregoing table.

From this it can be seen that practically no deduction from the effects of pelagic sealing should be made in any estimate of yearlings. It remains to be seen what loss from this cause should be applied to the estimate of 2-year-olds.

The preceding table shows "small pups" with an average weight of 5 pounds 10 ounces and "extra small pups" weighing 4 pounds 11 ounces. These weights, in my judgment, represent the average range of weights in 2-year-old skins. The London trade sales of pelagic skins for 1907 show that, of the first, there were 723 skins and of the latter 233 skins, or a total of 956. We can see here, as regards 2-year-olds, a distinct loss at sea, due to the fact that larger numbers of them are able to keep pace with the main body of the herd and therefore more liable to capture by the sea hunters. Contrasting this loss with an estimate of the number of 2-year-olds that might reasonably be believed to exist would fix it in the neighborhood of 10 per cent. In an estimate of these yearlings and 2-year-olds, therefore, we can see from the foregoing that no deduction for pelagic sealing should be made in the case of yearlings and a 10 per cent deduction for the same cause in the case of the 2-year-olds.

NUMBER OF 2-YEAR-OLD COWS IN 1907.

In 1905 it was estimated that 78,836 pups were born that year on the two islands (S. Doc. 98, 59th Cong., 1st sess., p. 73). Of these the sexes are accepted to be in equal proportions.

Applying the bases of estimation already mentioned, we would first divide the 78,836 pups into 39,418 females and a like number of males. The hardships of the first migration are supposed to cause these animals a loss of 50 per cent, so that in 1906 the number of yearling cows would be one-half of the 39,418 female pups of the preceding year, or 19,709. There would be also an equal number of yearling males.

These yearlings of 1906, on their next migration, as stated, suffer an estimated loss of 30 per cent from natural causes and a 10 per cent loss from pelagic sealing, at the end of which they arrive at the islands as 2-year-olds. By this method we find that in 1907 there were 11,826 2-year-old cows and an equal number of 2-year-old bachelors.

NUMBER OF 2-YEAR-OLD MALES.

From the above estimate of cows we can see that at the beginning of the season of 1907 approximately 12,000 2-year-old males were in existence, from which during the summer as demonstrated by the weights of skins taken on the islands nearly 10,000 were killed by the lessee. This estimate would show practically 2,000 2-year-old males present at the close of the season of 1907, of which 1,000 had been marked and reserved by the agents.

This estimate, however, errs on the side of too great conservatism. As stated elsewhere in this report, seals were so plentiful toward the end of the season that probably 1,500 more than the quota could have been taken. Of this 1,500, some undoubtedly would have been 3-year-olds, as the presence of the latter was apparent in the drives in some numbers up to the end of the season. In view of the undoubted number of 2-year-olds present after sealing was over, I would feel safe in adding to the above estimate of 2-year-old females and males as well 1,000 additional to each class, believing that this action is justified by the appearance of the bachelor herd at the close of the sealing season of 1907.

FINAL ESTIMATE OF 2-YEAR-OLDS.

We have therefore as a final estimate of 2-year-olds present at the close of the season of 1907, 12,826 2-year-old females and 3,000 2-year-old males.

ESTIMATE OF 3-YEAR-OLDS.

In addition to the 1,000 3-year-olds marked and released in 1907 for breeding purposes, an analysis of the catch for that year based on the weights of sealskins taken during the summer shows that over 4,000 3-year-olds were killed. This showing indicates that over 5,000 of these animals were handled during the season.

The record of dismissals of the marked 3-year-olds on St. Paul Island showed that only four-fifths of the number so marked afterwards hauled out. We are safe in assuming that the 5,000 hauled represent at most only four-fifths of all the 3-year-olds in the herd. By this method we could increase the 5,000, which represents 80 per cent of the whole number, by an additional 20 per cent, or 1,250, making 6,250 as an estimate of the whole number of 3-year-olds in the herd at the beginning of the season of 1907. Of these, as we have seen, 4,000 were killed, leaving 2,250 remaining at the close of the season.

ESTIMATE OF YEARLINGS.

On both islands in 1906, it is estimated, 63,933 pups were born exclusive of those found dead on St. George. These pups of 1906 form the yearlings of 1907.

Of the 63,933, a 50 per cent death rate would allow only 31,966 yearlings to return in 1907, of which one-half, or 15,983, would be females and a similar number males.

SUMMARY OF SEAL LIFE IN 1907.

From such counts as were made during the summer and the calculations based thereon, which have been detailed heretofore, the following summary of seal life on the Pribilof Islands at the close of the season of 1907 may be constructed:

Active bulls with harems	1,210
Idle bulls, including "quitters"	168
Half bulls	3,459
3-year-old bachelors	2,250
2-year-old bachelors	3,000
Yearling bachelors	15,983
Breeding cows	50,825
2-year-old cows	12,826
Yearling cows	31,966
New-born pups	50,825
Total	172,512

RELATION OF CATCH TO WHOLE HERD.

It has been shown that the number of breeding females, from which the increment to the herd is derived, has been decreased materially in the last three years as the effects of greater activity in pelagic sealing. With this fact established, it would, on the face of things, raise the question why, in spite of the great reduction of the females, the catch of young males should be maintained at the same figure during these years.

This question can be answered readily, and the answer is contained in the fact of the enforcement during these years of the Department's regulations restricting killing on the islands. Because of these restrictions a number of small seals have been allowed to escape each year, which but for these regulations would have been killed by the lessee. These small seals, returning the next year as prime eligibles, constituted what might be termed an additional increment to the natural one resulting from the maturity into killables of the yearlings of the year previous.

In other words, previous to the adoption of these restrictive regulations the lessee had been anticipating its next year's catch by killing nearly all those small-sized 2-year-olds, from which the next year the company would obtain its supply of 3-year-old skins. Prior to 1905 it had, in fact, few 3-year-old skins in its catch, because it had killed the 2-year-olds as closely as possible each preceding year. By the restrictive effect of the regulations large numbers of these small 2-year-old male seals are allowed to go over to the following year, when, being killed as 3-year-olds, they cause the presence in the company's catch of some thousands more 3-year-old skins than would be obtained were the 2-year-olds killed closely.

This can be seen readily by consulting the following table, compiled from the statistics of rejections from drives since 1903, the year before the adoption of the so-called restrictive regulations:

Year.	Large.	Small.	Marked or "branded."
1903	912	1,185	.....
1904	641	8,019	2,162
1905	934	7,625	2,663
1906	2,040	[a] 4,727	2,490
1907	2,941	[b] 2,483	2,285

[a] In 1906 the limit of small skins was reduced from 5½ to 5 pounds.
[b] On St. Paul in 1907 sealing was practically over on July 27, and on St. George on July 25. Had sealing been carried on until July 31, as usual, the number of small rejections would have been much larger, as these animals were present in large numbers at the end of the season.

From a scrutiny of this table it will appear that in the first year of these so-called prohibitive regulations (1904) over 10,000 rejections of small seals occurred, whereas the year before there were less than 1,200. It stands to reason that because of this great number of rejections the lessee's take of skins for that year was curtailed materially. In fact the catch of 1904 was over 6,000 less than the preceding year. But it is also a fact that in 1904 a large reserve of 2-year-olds was created from which the lessee might expect, and did actually derive, a greatly augmented catch of 3-year-olds the following year, or 1905. This same reserve of 2-year-olds was maintained in 1905—over 10,000—from which the lessee could get its 3-year-old skins in 1906. In 1906, while the limit of small sealskins to be taken was lowered by the Department from 5½ to 5 pounds, yet in this year nearly 5,000 small seals were released in addition to the 2,000 marked as breeders. What number of small seals failed to haul up and be counted during this time we do not know, but we are certain that by means of this reserve derived from the savings of young males in previous years the company's catch in 1907 was maintained at the same figure, regardless of the contemporaneous slaughter and diminution occurring among the breeding cows. At first glance it would appear that the reserve of young seals maintained in previous years was materially lessened in 1907, as in that year the table shows only 2,483 small seals dismissed as against over 4,700 the year previous. While our statistics of killings show that the lessee killed closer in 1907 than in 1906, it must be remembered that sealing in 1907 was practically finished on St. George on July 25 and on St. Paul on July 27. Had the usual number of drives been made on the islands between July 25 and 31, in 1907, thousands of small seals (which come in rapidly at the end of the season) would have been driven up and turned away, with the result not only of materially increasing the record of rejections from drives but of lowering, as well, the percentage of seals killed during the season.

If it is doubted that the regulations of the Department since 1904 have been efficacious in providing young male life to replenish the diminishing stock of active bulls on the rookeries, one has only to turn to the table just given to see that the rejections in 1907 of young males too large for killing exceeded those of 1904 by about 360 per cent (641 in 1904, 2,941 in 1907). In addition to this fact it has been shown previously that the decrease in male life on the rookeries practically

was checked in 1907, and that there is an estimated breeding reserve at present of over 3,400 young bulls—nearly three times as many as are now occupied with harems.

EXPEDIENCY OF PROVIDING LARGE RESERVE OF MALES.

It is of course true that the number of adult bulls on the rookeries has until 1907 been steadily decreasing, due to the fact that the accession of young male life escaping from the killing fields until recently has not been sufficient to offset the loss of old bulls from natural mortality and pelagic sealing.

With the existence, however, of a large reserve of young male life created by restrictions placed on the killing of immature bachelors the question is presented whether or not it is good policy to maintain this reserve in larger numbers than necessary to meet the demands of the breeding herd.

Enough seals in my opinion should be spared from the killing field to insure against any decrease in bulls. After that is done, however, I would recommend that every seal that can be killed on land under existing law and regulations be taken.

From present indications the end of pelagic sealing will be reached only when it is unprofitable for the schooners to longer engage in the business. Under this assumption, the sooner the herd is reduced to a minimum the sooner the question will be settled. It would seem therefore the best policy to reduce the seals which can be killed under existing law to as small a number as advisable. Under no circumstances should it be considered the part of wisdom to exempt from slaughter a larger number of males than are necessary to keep up the proper proportion in numbers between the breeding males and females. With a rapidly diminishing herd of females, a smaller number of bulls will be required.

The releasing on the islands of any killable male not required for future procreative purposes is just so much encouragement for the pelagic hunter to continue in the business of killing seals in the water. Such encouragement should not be offered by this Government.

PELAGIC SEALING.

The industry of killing seals in the water from small boats transported by schooners of low tonnage was engaged in actively during the past summer. The schooners employed approximated 50, of which about 35 were Japanese and 15 Canadian.

Due to the activity of the revenue cutters on patrol duty, and the probable effect of the arrest of raiders on the island the previous summer, no attempts to raid the breeding rookeries on the islands were noted. Three schooners belonging to the Japanese fleet were seized by the revenue cutters *Manning* and *Perry* for having small boats within the 3-mile limit taking seals. One of these schooners after being towed to Unalaska was released on the ground of insufficient evidence. The other two, however, after being taken to Unalaska were held there under guard, while the crews were transported by the revenue cutter *Manning* to Valdez for trial, at which such of the crew were convicted as were concerned in the offense for which they were apprehended. The remainder of the crews were released.

In addition to the seizures above mentioned, a pelagic schooner was seized by the revenue cutter *Rush* in southeastern Alaskan waters for a violation of the provisions of the Paris award.

The operations of the pelagic fleet about the islands began earlier this year than formerly. The first vessel sighted from the islands was the one seized by the *Perry* and towed into the village anchorage June 15. After that, with but few exceptions, schooners were sighted daily from the islands, on one day 12 and on another 23 schooners being visible from the island of St. Paul. The schooners seemed to be active only in the vicinity of St. Paul, a few only being found around St. George.

VIOLATIONS OF LAW.

While on the high seas, even in the vicinity of the islands, foreign vessels are not amenable to the laws of the United States, yet within the territorial limit surrounding the islands they are clearly subject to all laws passed by this Government for the protection of the seal fisheries.

Notwithstanding the careful and zealous patrol by the United States revenue cutters several instances of violations of law by pelagic sealers came under the notice of the guards at the islands. While the nationality of the persons engaged in these violations was not discovered, there is strong probability that they were Japanese.

On June 25, during a trip of the patrolling vessel around the island 3 small boats from pelagic schooners were seen shooting close to Otter Island, 6 miles away from St. Paul. The smoke from their guns at each discharge could plainly be seen through glasses from St. Paul. After shooting for some time and pulling their boats back and forth in the water, the crews of 2 of the small boats landed on Otter Island, where they remained only a short time, probably finding no seals there. They could be seen to enter the watchhouse on that island.

On June 28, during a thick fog, shotgun firing was heard close to shore at Northeast Point.

On June 30, with thick fog, gun firing was continuous in Southwest Bay from noon until 6 p. m. After that hour until 9 p. m. cannon shots were heard at intervals. From the plainness with which shots could be heard it was evident that a number of small boats were operating close to shore within the 3-mile limit, but, owing to dense fog, neither schooners or small boats could be seen from shore.

On July 1, still in a dense fog, this firing was continued close to shore, but nothing of the poachers could be seen.

On July 2, 7 small boats were operating within one-half mile of Northeast Point.

On July 3, a small boat approached within one-half mile of Reef Rookery.

On July 4, two schooners were seized by the cutter *Manning* for having boats taking seals within the 3-mile limit.

On July 18, 6 boats were found by watchmen well within the 3-mile limit at Northeast Point, operating within 400 yards of shore. On discovery by the guard they made off as rapidly as possible.

On this date 3 Japanese sailors made their way into the village, having landed on North Shore. They claimed to have been shipwrecked, but probably were deserters from their schooner.

On July 26, 2 boats were found rowing directly for Northeast Point Rookery. Their object apparently was to land. They came in so close that the guard fired 3 warning shots, upon which the boats turned about and pulled away.

The fact that these violations of law occurred is no reflection upon the vigilance of the revenue cutters or patrol. It must be remembered that St. Paul Island has approximately 50 miles of shore line and to circumnavigate it requires from five to seven hours. While the cutter is at one end of the island on patrol it was no hard matter for the crews of small boats at the other end to slip inside the 3-mile limit and operate there for an hour or two. Then, again, it became necessary at certain times for one cutter to patrol both islands, necessitating its absence from one island for a day or two, during which the pelagic sealers could, and on certain occasions did, approach the island closely. Furthermore, in dense fog, which prevails largely in summer, navigation among the reefs and currents about the islands is dangerous in the extreme and patrol vessels must proceed cautiously, while a sealing schooner with light tonnage and wooden bottom may come in close with little danger. From the action of the pelagic hunters during the summer it must be believed that they watch closely the movements of the vessels on patrol and are quick to take advantage of every move on their part.

LANDING OF THREE JAPANESE.

On July 18, 3 Japanese sailors were found within a mile of the village making their way thereto on the main road leading to and from Northeast Point. They had quite heavy packs on their backs, composed of changes of clothing, ammunition box with shotgun shells loaded and empty, 2 shotguns, compass, etc. They could not speak English, but made signs to indicate that they had landed on the North Shore, and made their way overland thence in the direction of Polovina, until finally they reached the village. They made signs that they desired food.

With the aid of the Chinese cook, who could partially understand written Japanese characters, it was made out that the 3 men were from the Japanese schooner *Eun Maru*, and that they complained of illtreatment on board. They stated that they left their rowboat, in which they landed, on the north shore. They were given a vacant native house in which to live, and provisions and bedding.

Watchmen sent to the north shore reported that the boat was there in the place indicated by the Japanese. It contained 6 oars, 6 rowlocks, 1 sail, 1 water cask (full), 1 bottle of water, 1 long pole with 3 hooks, 2 rain coats, and one sou'wester.

Two days afterwards the revenue cutter *Perry* came in, and at my request Captain Dunwoody readily agreed to take the 3 Japanese off the island, which was done that evening. The cutter afterwards at their request delivered these sailors on board another sealing schooner than the one they stated they belonged to.

CATCH OF PELAGIC FLEETS.

Statistics received by the State Department indicate that the catch of the British Columbian fleet for the season of 1907 was 5,397 skins, of which 1,934 were taken on the British Columbian coast, 448 outside the award area, 2,858 in Bering Sea, and a canoe catch stated at 157. The vessels engaged numbered 15 on the northwest coast, 3 outside the award area, and 9 in Bering Sea. In the above catch 15 branded sealskins were taken. In addition to the sealskins 2 schooners captured 38 sea otters.

The British Columbia catches for two years previous, as reported by the State Department, are as follows:

1906	10,370
1905	14,177

On December 17, 1907, Lampson & Co. exposed for sale in London 8,607 northwest coast sealskins, which were classified as stated in a preceding table.

The catch as reported to the State Department and the figures of the London trade sales for the northwest coast catch show a difference of 3,210 sealskins. Whether this difference represents skins actually taken by the Canadian sealers not reported to their customhouses, whether it represents miscellaneous shore catches which are only partially reported, or whether held over from previous years and exposed for sale in 1907 it is impossible to state.

Reliable estimates made by United States consular agents in Japan show the Japanese pelagic catch for 1907 to be 10,505 fur-seal skins, as opposed to 10,515 in 1906. In 1907, 36 vessels were engaged, as against 31 in 1906. Of the 1907 catch, 1,723 skins were taken in the so-called spring catch off the Asiatic coast, while 8,782 skins were taken in the summer catch in Bering Sea, nearly all of which were from the Pribilof herd. In addition to the catch of sealskins in 1907, 39 sea-otter skins were taken in a raid on the Commander Islands, where, in 1906, 37 were taken by the same methods.

The report states further that 3 Japanese schooners raided the Commander Islands, as a result of which 12 Japanese prisoners were taken by the Russians. These prisoners, it is stated, were released to a Japanese cruiser as the result of threats by the latter. It is stated also that a schooner named the *Saikai Maru* raided the Pribilofs, obtaining 62 fur-seal skins without detection. No knowledge of this raid, however, is had by anyone on either island.

On January 24, 1908, Lampson & Co. exposed for sale in London "7,429 salted fur seal, N. W. Coast, etc.," in addition to those northwest coast skins sold December 17, previous, already mentioned. It is probable that these skins represent the Japanese catch from the Pribilof herd. They were classified according to size, as follows:

Wigs	34
Middlings	44
Middlings and smalls	974
Smalls	1,946
Large pups	1,875
Middling pups	1,390
Small pups	835
Extra small pups	265
Extra extra small pups	14
Black pups	52
Total	7,429

REVENUE-CUTTER PATROL.

As before stated the patrol about the islands by the Revenue-Cutter Service was active and zealous.

While at the first part of the season a cutter was on guard at each island, later, when the *Manning* left for the eastward with her prisoners, it became necessary for one cutter to patrol both islands while its relief went to Unalaska for coal and water. It is a significant fact that such violations of law by pelagic sealers as came under our notice occurred while the patrolling vessel was necessarily absent elsewhere, either at the other island or patrolling a different locality of St. Paul. It would indicate the willingness of pelagic sealers to risk capture by approaching shore and sealing in prohibited waters when they believe the cutter is far enough away for them to avoid detection. This seeming characteristic of the sealers to take all sorts of chances for a skin or two indicates plainly that but for the presence of the patrol vessels raids on the rookeries would have been attempted.

For this reason it is urgently recommended that no decrease in the number of patrolling vessels be made during the coming season, but that, if possible, it be even augmented. The withdrawal of any vessel from the number usually on patrol would be simply an invitation to the pelagic sealers to raid the rookeries.

I desire to express here my appreciation of the zeal and efficiency displayed by all of the officers and men engaged in the duty of patrolling the seal islands during the past summer.

Considerable difficulty was experienced last summer through the lack of a committing officer of the Department of Justice at Unalaska where any prisoners arrested in Bering Sea for a violation of the laws protecting the fur seals necessarily must be taken. In the case of those arrested by the *Manning* for poaching within the 3-mile limit, it became necessary, for lack of a committing officer, for the *Manning* to proceed with the prisoners to Valdez, thereby removing her from the patrol for practically the remainder of the season. I understand, however, that since last summer a commissioner for Unalaska has been appointed.

In view of the many delicate points of law arising in the arrests of foreigners and seizures of foreign vessels for violations of our sealing laws, I would recommend that an assistant United States attorney be stationed at Unalaska during the summer to advise the United States commissioner and generally to supervise the procuring of evidence against such persons as may be found subject to commitment.

AFFAIRS OF NATIVE INHABITANTS.

The affairs of the native inhabitants on the two islands have been carefully managed during the past winter by the Government agents stationed there. On St. Paul systematic regrading and improvement of the roads in the village and vicinity were accomplished under the direction of Agent Judge. Furthermore, a large building was constructed on St. Paul by Mr. Judge and the natives out of lumber taken from the old church when it was demolished, to be used as a shop for the natives, where also they may have their meetings, dances, and other secular gatherings. This building, constructed,

as I have said, out of old lumber, is carefully and solidly built, and reflects credit on all concerned.

Too much could not be said by both Agents Judge and Chichester, who spent the last winter there, in commendation of the general deportment of the native men and their disposition to observe not only the law, but the social and moral proprieties as well. While, according to time-honored custom, certain of them made "quass" on their important church holidays and "name days," they were temperate in its use, and its consumption entailed no disorder. An organization among the native men for the suppression of social disorder was successfully operated during the past winter and marks a distinct step in the advancement of the people.

CENSUS OF NATIVE INHABITANTS.

The census of native inhabitants on St. Paul, taken June 30, 1907, shows 170 residents, of which 90 were males and 80 females. During the year 9 births and 6 deaths occurred. The above figures show a net gain in the population of 3 individuals over the preceding census.

On St. George on June 30, 1907, there were present 93 native residents, of which 44 were males and 49 females—a net gain of 2 over the census of the year before. On this island 7 births and 5 deaths occurred during the year.

The combined population of both islands for 1907, taken from the foregoing, would be 263, of whom 134 are males and 129 females—a net gain on the two islands over the preceding census of 4 individuals.

EARNINGS OF NATIVES.

On St. Paul for the season ended July 31, 1907, $9,294 was earned from the lessee by the 44 native sealers through their taking and properly curing 12,384 fur-seal skins, at 75 cents each, and 3 sea-lion skins, at $2 each. This sum was divided among the several native workmen according to their respective classifications, and the proper credits therefor entered on the books of the lessee company.

On St. George 24 native men earned $1,838 through their taking, during the winter of 1906–7, 366 blue-fox skins, at $5 each, and 8 white-fox skins, at $1 each. At the close of the sealing season of 1907—July 31 of that year—they had earned $1,835.75 by securing 2,581 fur-seal skins, at 75 cents each. As in the case of St. Paul, these sums were divided among the several natives according to the classification agreed upon by the natives under the general supervision of the Government agents.

GOVERNMENT APPROPRIATION.

After deducting the cost of 240 tons of coal, at $20 per ton, to be delivered in the spring of 1908, the remainder of the appropriation of $19,500 for the fiscal year 1908 was divided between the two islands in the proportion of $9,300 for St. Paul and $5,400 for St. George.

FOXES.

During the winter of 1906–7, 869 blue and 8 white foxes passed through the traps on St. George Island, of which 375 were killed—226 blue males, 141 blue females, 4 white males, and 4 white females. Of

those killed, the lessee accepted 366 blue and 8 white. There were released for breeding purposes 232 blue males and 270 blue females. These latter, as reported by Agent Chichester, were the cream of the herd, no fox being released as a breeder that was over 3 years of age and only 6 animals that were under the standard weight of 10 pounds for males and 7½ pounds for females. These foxes were trapped in a large house trap having a wire inclosure outside containing food, into which the foxes are induced to enter through a trapdoor sprung at will by the operator. They are then picked up by hand, weighed, and examined for sex, etc., and released or killed on the judgment of the Government agent. Those released are marked by cutting with scissors a ring around the fur in the animal's brush, the mark of the males differing from that of the females, so that the sexes afterwards may be distinguished when the animals are at large.

During the winter when the natural food for foxes is scarce, artificial food, such as salted fish freshened by soaking in water and carcasses of seals killed during the summer and preserved in pits, are given to them daily in such quantity as will insure a residue after they have eaten their fill. It has been determined by the investigations into fox life on the island by Government agents that, epidemics barred, the food supply regulates the rise and fall of the numbers of the fox herd on St. George.

I inclose herewith a report from Assistant Agent Chichester dealing in detail with the fox question on St. George as observed by him during the winter of 1906–7. In this report I desire to call particular attention not only to the thoroughness of the work incident to handling the foxes, but to the authentic instance cited of paired foxes jointly engaged in feeding and guarding the same litter of young.

GUARDING THE ROOKERIES.

The 3 Gatling and 5 Hotchkiss guns with the small arms and ammunition, sent by the Government for the better protection of the rookeries, arrived on the islands at the time of my departure therefrom last August. I have since learned from Assistant Agent Judge that the artillery has been assembled and prepared for service and that systematic target practice is being engaged in with small arms.

DIVISION OF GOVERNMENT APPROPRIATION.

The appropriation of $19,500 for natives' support during the fiscal year ended June 30, 1907, was apportioned as follows:

St. Paul	$9,300
St. George	5,400
Coal for both islands	4,800
Total	19,500

This sum will be expended for necessaries of life for the native inhabitants upon orders drawn upon the lessee company by the resident Government agents.

PRESENCE OF U. S. CRUISER "BUFFALO."

The U. S. cruiser *Buffalo* arrived at the islands on patrol duty during the latter part of August, after my departure for Washington.

The cruiser alternately patrolled the 60-mile limit and cruised in the close vicinity of the islands to deter possible raids on the rookeries. While no raids were made, her presence was highly valuable as a restraining influence on the pelagic fleet. I trust that the Government will insure her return during the coming season.

Both Agents Judge and Clark, on St. Paul and St. George, respectively, speak highly of the courtesies extended to them by Capt. C. F. Pond, of the *Buffalo*, in the matter of mail facilities and offers of transportation, and request that suitable acknowledgment thereof be made to the Navy Department.

Respectfully submitted.

W. I. LEMBKEY,
Agent in Charge of Seal Fisheries

To Hon. OSCAR S. STRAUS,
Secretary of Commerce and Labor.

EXHIBIT 1.—*Annual statement of fur seals killed on St. Paul Island, Alaska, during the year ended July 31, 1907.*

Date.	Rookery.	Number of seals killed for natives' food.						Number of seals killed by lessees for skins.					Aggregates.		
		Large young seals.	Total.	Skins accepted by lessees.	Skins rejected.			Accepted.	Rejected.			Total.	Skins accepted.	Skins rejected.	Total number of seals killed.
					Under size.	Stagey.	Cut.	Prime.	Under size.	Cut.	For other reasons.				
1906.															
Aug. 8	Over and under size skins on hand	107	107	[c]107									107		107
9	Reef	116	116	116									116		116
17	Food skins to date (watch)	26	26	26									26		26
Oct. 22	Reef	112	112	112									112		112
29	Middle Hill	122	122	119	1		2						119	3	122
Nov. 5	Reef	173	173	169	2		2						169	4	173
14	Northeast Point	139	139	138	1								138	1	139
23	Reef and Tolstoi	203	203	201	2								201	2	203
29	Reef	198	198	194	2		2						194	4	198
Dec. 20	Sea Lion Rock	226	226	224			2						224	2	226
1907.															
Jan. 14	Autumn food skins, Northeast Point (guard)	6	6	5			1						5	1	6
29	Sea Lion Rock	6	6	6									6		6
May 12	do	105	105	102	1	2							102	3	105
28	Reef	106	106	104	2								104	2	106
June 28	Northeast Point							397	2	1	[a]1	401	397	4	401
29	Tolstoi							90	2	1		93	90	3	93
July 1	Zapadni							204		2		206	204	2	206
2	Reef and Gorbatch							558	1	5		564	558	6	564
3	Northeast Point							553		3		556	553	3	556
3	Halfway Point							46				46	46		46
5	Zapadni							249			[a]2	251	249	2	251
6	Reef and Gorbatch							515		1		516	515	1	516
6	Tolstoi							120		3		123	120	3	123
8	Northeast Point							394				394	394		394
10	Reef and Gorbatch							443		2		445	443	2	445
11	Zapadni							351		2		353	351	2	353
13	Tolstoi							218	1	4	[b]1	224	218	6	224
15	Northeast Point							1,221	1	2		1,224	1,221	3	1,224
15	Halfway Point							19				19	19		19
16	Reef and Gorbatch							771		8	[b]3	782	771	11	782
17	Zapadni							318		1	[b]2	321	318	3	321
18	Tolstoi							71				71	71		71

EXHIBIT 1.—*Annual statement of fur seals killed on St. Paul Island, Alaska, during the year ended July 31, 1907*—Continued.

Date.	Rookery.	Number of seals killed for natives' food.						Number of seals killed by lessees for skins.					Aggregates.		
		Large young seals.	Total.	Skins accepted by lessees.	Skins rejected.			Accepted.	Rejected.			Total.	Skins accepted.	Skins rejected.	Total number of seals killed.
					Under size.	Stagey.	Cut.	Prime.	Under size.	Cut.	For other reasons.				
July 20	Northeast Point							485		1		486	485	1	486
20	Halfway Point							114		2		116	114	2	116
22	Reef and Gorbatch							1,165	5	9		1,179	1,165	14	1,179
22	Tolstoi							38				38	38		38
23	Zapadni							296		1	[b] 3	300	296	4	300
25	Northeast Point							854		2	[b] 2	858	854	4	858
25	Halfway Point							94		1	[b] 1	96	94	2	96
26	Reef and Gorbatch							622		2	[b] 3	627	622	5	627
26	Tolstoi							60				60	60		60
27	Zapadni							348		1		349	348	1	349
29	Reef							55		2		57	55	2	57
	Total	1,645	1,645	1,623	11	2	9	10,669	12	56	18	10,755	12,292	108	12,400

[a] Large. [b] Bitten. [c] Delivery authorized by D. L. April 15, 1907.

EXHIBIT 2.

ISLAND OF ST. PAUL,
Bering Sea, Alaska, August 18, 1907.

This is to certify that 12,384 fur-seal skins have this day been shipped on board the North American Commercial Company's steamer *Homer*, consigned to the North American Commercial Company, San Francisco, Cal.

W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

Shipper's load and count. All on board to be discharged.
A. DONALDSON, *Master Steamer Homer.*

EXHIBIT 3—*Receipt for lease coal, St. Paul, 1907.*

ST. PAUL ISLAND, ALASKA, *June 13, 1907.*

Received from the North American Commercial Company 50 tons of coal (2,240 pounds to the ton), as part of the 80 tons which said company, by the terms of its lease dated March 12, 1890, agreed to deliver free each year for use of the native inhabitants of the seal islands.

In accepting this receipt executed in quintuplicate before this coal has been weighed, the said North American Commercial Company hereby agrees to make good, from its own supply on the islands, any shortage that may appear after said coal has been weighed.

W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

J. C. REDPATH,
Agent North American Commercial Company.

EXHIBIT 4—*Receipt for natives' coal, St. Paul, 1907.*

ST. PAUL ISLAND, ALASKA, *June 13, 1907.*

Received from the North American Commercial Company 200 tons of coal (2,240 pounds to the ton), contracted for by the Department of Commerce and Labor, as per letter of instructions to agent in charge dated April 15, 1907, for use of the natives on St. Paul Island, to be paid for at the rate of $20 per ton from the appropriation for "food, fuel, and clothing and other necessaries of life to the native inhabitants on the islands of St. Paul and St. George, Alaska, 1907."

In accepting this receipt executed in quintuplicate before this coal has been weighed, the said North American Commercial Company hereby agrees to make good, from its own supply on the islands, any shortage that may appear after said coal has been weighed.

W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

J. C. REDPATH,
Agent North American Commercial Company.

EXHIBIT 5.—*Record of weights of sealskins taken on St. Paul Island, Alaska, during the season ended July 31, 1907.*

Weight.	Number.	Weight.	Number.
Pounds.		*Pounds.*	
3¾	1	6¾	1,370
4	3	7	1,170
4¼	2	7¼	904
4½	15	7½	852
4¾	2	7¾	554
5	233	8	283
5¼	375	8¼	199
5½	615	8½	175
5¾	1,066	9¼	2
6	1,278	9¾	3
6¼	1,316	10	1
6½	1,579	10½	1

NOTE.—The number of skins taken on St. Paul during the year under 5 pounds and over 8½ pounds number 28, composed of 23 small and 5 large. Of these, 11 small and 2 large were taken during the food drives made by the Government agents. These have not been included in the number of prohibited skins on which shipment was refused. The number so retained, taken by the lessee, was 15 skins, of which 12 were small and 3 large.

EXHIBIT 6.—*Division of natives' earnings, St. Paul Island, Alaska, season of 1907.*

By 12,384 fur-seal skins, at 75 cents		$9,288.00
By 3 sea-lion skins, at $2		6.00
Total		9,294.00
To 22 first-class shares, at $253.95	$5,586.90	
To 9 second-class shares, at $203.20	1,828.80	
To 9 third-class shares, at $152.40	1,371.60	
To 4 fourth-class shares, at $101.65	406.60	
To 2 special shares, at $50.05	100.10	
Total		9,294.00

First-class shares, 22 men, at $253.95 each:

Alex. Melovidoff.	George Kotchergin.
Karps Buterin.	John Kochutin.
Jacob Kochutin.	Alex. Merculieff.
Nicoli Krukoff.	Parfiri Pankoff.
Simeon Melovidoff.	Elary Stepetin.
Simeon Nozekoff.	Neon Tetoff.
Theo. Sedick.	J. E. Orloff.
Dorofay Stepetin.	John Krukoff.
John Stepetin.	George Shisenikoff.
Apollon Bourdukofsky.	Peter Tetoff.
Nicoli Bogadanoff.	Necon Shabolin.

Second-class shares, 9 men, at $203.20:

Peter Bourdukofsky.	Michael Kozloff.
Michael Kushin.	Metrofan Krukoff.
Innokenty Sedick.	John Merculieff.
Stepan Rookavishnikoff.	Zahar Tetoff.
Nicoli Gromoff.	

Third-class shares, 9 men, at $152.40:

Alex. Galaktioneff.	Nekita Hopoff.
Constantine Buterin.	Nicoli Kozloff.
Vlass Pankoff.	Theo. Kochutin.
Trefan Kochutin.	Paul Koshevnikoff.
John Fratis.	

Fourth-class shares, 4 men, at $101.65:

Ivanally Kozeroff.	Condrat Krukoff.
John Mazeekin.	Paul Merculieff.

Special class, 2 men, at $50.05 each:

Karp Buterin, first chief.	Alex. Merculieff, second chief.

ST. PAUL ISLAND, ALASKA, *August 4, 1907.*

I hereby certify that the above division was made by me, in the manner detailed above, after conference with the native chiefs on this island.

W. I. LEMBKEY,
Agent in Charge of Seal Fisheries.

ST. PAUL ISLAND, ALASKA, *August 4, 1907.*

I hereby certify that the amounts, as above stated, representing the division on St. Paul Island for the season of 1907, will be placed to the credit of the respective natives on the books of the North American Commercial Company.

THE NORTH AMERICAN COMMERCIAL COMPANY,
By J. C. REDPATH, *Superintendent.*

ST. PAUL ISLAND, ALASKA, *August 4, 1907.*

We hereby approve the division for St. Paul Island for the season of 1907, as detailed above, for and on behalf of the natives of said island.

his
KARP x BUTERIN, *First Chief,*
mark.
By W. I. LEMBKEY.
ALEX. MERCULIEF, *Second Chief.*

EXHIBIT 7.—*Census of St. Paul Island, Alaska, year ended June 30, 1907.*

Name.	Relation.	Age.
Bogadanoff, Nicoli	Husband	35
Bogadanoff, Uleta	Wife	40
Bogadanoff, Agrafina	Niece	10
Bourdukofsky, Apollon	Father	54
Bourdukofsky, Peter	Son	28
Buterin, Karp	Husband	53
Buterin, Parascovia	Wife	51
Buterin, Constantine	Son	21
Mazeekin, Wassalisa	Adopted daughter	12
Fratis, John	Husband	21
Fratis, Sandulia	Wife	17
Fratis, Gavriel	Son	1
Galaktioneff, Alex	Husband	35
Galaktioneff, Lukeria	Wife	30
Galaktioneff, Mary	Daughter	5
Galaktioneff, Matrona	do	4
Galaktioneff, Aggie	Son	1
Hanson, Anna	Stepdaughter	7
Gromoff, Nicoli	Husband	39
Gromoff, Ulianna	Wife	37
Stepetin, Pavla	Adopted daughter	15
Stepetin, Elary, jr	Adopted son	6
Volkoff, Tecan	Orphan	14
Kochutin, Jacob	Husband	55
Kochutin, Alexandria	Wife	45
Kochutin, Larion	Son	14
Mandregan, Innokenty	Orphan	16
Mandregan, Nekifer	do	11
Kochutin, John	Husband	36
Kochutin, Claudia	Wife	27
Kochutin, Nikanor	Son	6
Kochutin, Erena	Daughter	4
Kochutin, Nicoli	Son	[a] 6
Vickaloff, Alexander	Stepson	9
Kochutin, Theodore	Husband	19
Kochutin, Mary	Wife	21
Kochutin, Karp	Son	2
Kochutin, Trefan	Husband	22
Kochutin, Natalia	Wife	27
Hopoff, Nekita	Bachelor	19
Kushin, Mary	Widow	52
Kushin, Nestor	Cousin	14
Hanson, John	do	11
Kotchergin, George	Husband	29
Kotchergin, Agafia	Wife	27
Tetoff, Peter	Adopted son	5
Kozloff, Michael	Son	21

[a] Months.

EXHIBIT 7.—*Census of St. Paul Island, Alaska, year ended June 30, 1907*—Continued.

Name.	Relation.	Age.
Kozloff, Parascovia	Mother	48
Serebrinikoff, Ripsimia	Cousin	14
Kozloff, Nicoli	Husband	19
Kozloff, Alexandria	Wife	26
Melovidoff, Alexandria	Niece	5
Koshevnikoff, Paul	Husband	28
Koshevnikoff, Mary	Wife	33
Krukoff, John	Husband	27
Krukoff, Uleta	Wife	23
Krukoff, Alexandria	Daughter	1
Krukoff, Condrat	Brother	17
Dyakanoff, Andrew	Stepson	13
Krukoff, Metrofan	Husband	24
Krukoff, Pelagia	Wife	19
Philamonoff, Foekla	Sister-in-law	12
Krukoff, Nicoli	Husband	56
Krukoff, Katherine	Wife	49
Krukoff, Ustinia	Daughter	17
Emanoff, Alexai	Nephew	9
Tetoff, Agrafina	Daughter of Neon	5
Kushin, Michael	Husband	22
Kushin, Matrona	Wife	17
Mazeekin, John	Bachelor	18
Seduli, Elizabeth	Widow	66
Stepetin, Marena	Daughter of John	9
Melovidoff, Alexander	Husband	32
Melovidoff, Salome	Wife	31
Melovidoff, Antone	Son	13
Melovidoff, Alfai	do	4
Melovidoff, Joseph	do	a 3
Melovidoff, Simeon	Husband	39
Melovidoff, Alexandria	Wife	39
Melovidoff, Margaret	Daughter	15
Melovidoff, Christopher	Son	13
Melovidoff, Alexander	do	11
Melovidoff, Simeon, jr	do	8
Merculieff, Alexander	Husband	31
Merculieff, Agafia	Wife	29
Merculieff, Paul	Son	13
Merculieff, Auxenia	Daughter	11
Merculieff, Terrenty	Son	4
Merculieff, Dorofay	do	2
Merculieff, Paul	Brother	17
Merculieff, John	Husband	21
Merculieff, Avdotia	Wife	34
Merculieff, Serefimia	Daughter	3
Merculieff, Leonty	Son	(b)
Nozekoff, Simeon	Husband	30
Nozekoff, Avdotia	Wife	32
Nozekoff, Mary	Daughter	9
Tetoff, John	Adopted son	3
Kozeroff, Ivanally	Half brother	19
Kozeroff, Alexandria	Half sister	14
Orloff, J. E., Rev. Father	Father	49
Orloff, Olga	Daughter	17
Orloff, Nadia	do	15
Orloff, Nicoli	Son	13
Orloff, Alexandria	Daughter	10
Pankoff, Parfiri	Father	44
Pankoff, Martha	Daughter	9
Pankoff, Vlass	Husband	19
Pankoff, Agrafina	Wife	19
Rookavishnikoff, Stepan	Husband	26
Rookavishnikoff, Elizabeth	Wife	20
Rookavishnikoff, Andrew	Son	2
Sedick, Theodore	Father	59
Sedick, Innokenty	Son	22
Sedick, John	do	10
Shabolin, Necon	Husband	40
Shabolin, Foekla	Wife	37
Shabolin, Varvara	Daughter	9
Shabolin, Matrona	do	7
Shabolin, Daniel	Son	4
Shabolin, Cæsar	do	a 3
Stepetin, Dorofay	Husband	36
Stepetin, Luboff	Wife	31
Stepetin, Auxenia	Daughter	8
Stepetin, Marena	do	2
Stepetin, Vassili	Son	14
Stepetin, Elary	Husband	43
Stepetin, Anna	Wife	36
Stepetin, Agnes	Daughter	11

a Months. b Infant.

EXHIBIT 7.—*Census of St. Paul Island, Alaska, year ended June 30, 1907*—Continued.

Name.	Relation.	Age.
Stepetin, Nicoli	Son	4
Stepetin, Mark	do	1
Stepetin, John	Husband	27
Stepetin, Vera	Wife	27
Stepetin, Vassili	Son	6
Stepetin, Larion	do	2
Stepetin, Olga	Daughter	1
Shisenikoff, George	Father	25
Shisenikoff, Sergius	Son	2
Tetoff, Neon	Husband	37
Tetoff, Agrafina	Wife	32
Tetoff, Mary	Daughter	11
Tetoff, Dimitri	Son	9
Tetoff, Irena	Daughter	7
Tetoff, Anna	do	[a] 6
Tetoff, Peter	Husband	42
Tetoff, Mary	Wife	46
Kochutin, Varvara	Adopted daughter	11
Stepetin, Keonia	do	12
Tetoff, Zahar	Husband	28
Tetoff, Daria	Wife	27
Tetoff, Paul	Son	2
Tetoff, Benedict	do	[a] 3
WIDOWS AND ORPHANS.		
Balokshin, Matrona	Widow	57
Rookavishnikoff, Parascovia	Niece	18
Shaposhnikoff, Parascovia	Spinster	40
Emanoff, Mary	Widow	29
Emanoff, Eneka	Son	6
Emanoff, Peter	do	4
Emanoff, Mammoth	do	1
Fratis, Akalina	Widow	33
Fratis, Agrafina	Daughter	16
Fratis, Simeon	Son	13
Fratis, Ulianna	Daughter	11
Fratis, Martha	do	8
Kochutin, Zenobia	Mother	39
Kochutin, Innokenty	Son	4
Krukoff, Anna	Widow	41
Krukoff, Mary	Daughter	10
Peeshnikoff, Wassalisa	Widow	47
Nedarazoff, Katherine	do	49

[a] Months.

RECAPITULATION.

Males		90
Females		80
Native population, June 30, 1906		168
Arrival during year ended June 30, 1907		1
Births during year ended June 30, 1907		9
		178
Departures during year ended June 30, 1907	2	
Deaths during year ended June 30, 1907	6	
		8
Total native population, June 30, 1907		170

EXHIBIT 8.—*Statistics of killings, St. Paul Island, 1907.*

Date.	Rookery.	Killed.	Dismissed.		Branded.		Total driven.	Per cent killed.
			Small.	Large.	2 years.	3 years.		
1907.								
Jan. 29	Sea Lion Rock	6	.....	22	.....	.....	28	21
May 12	....do	105	.....	212	.....	.....	317	33
28	Reef	106	13	318	.....	.....	437	24
June 28	Northeast Point	401	61	143	.....	.....	605	66
29	Tolstoi	93	.....	61	7	9	170	54
July 1	Zapadni	206	71	57	45	19	398	51
2	Reef and Gorbatch	564	93	134	96	73	960	58
3	Northeast Point	556	80	121	66	56	879	63
3	Halfway Point	46	3	44	1	3	97	47
5	Zapadni	251	54	32	9	14	360	69
6	Reef and Gorbatch	516	88	120	46	37	807	63
6	Tolstoi	123	25	56	3	7	214	57
8	Northeast Point	394	94	33	16	9	546	72
10	Reef and Gorbatch	445	55	65	31	36	632	70
11	Zapadni	353	56	24	22	8	463	76
13	Tolstoi	224	28	10	13	15	290	77
15	Northeast Point	1,224	294	22	55	33	1,628	75
15	Halfway Point	19	1	18	2	5	45	42
16	Reef and Gorbatch	782	77	49	65	72	1,045	74
17	Zapadni	321	38	21	31	23	434	73
18	Tolstoi	71	4	19	9	8	111	63
20	Northeast Point	486	45	11	28	7	577	84
20	Halfway Point	116	1	15	5	7	144	80
22	Reef and Gorbatch	1,179	63	120	87	69	1,518	77
22	Tolstoi	38	.....	39	7	6	90	42
23	Zapadni	300	26	43	24	10	403	74
25	Northeast Point	858	72	21	39	16	1,006	85
25	Halfway Point	96	4	26	4	17	147	65
26	Reef and Gorbatch	627	70	124	80	65	966	64
26	Tolstoi	60	2	36	7	5	110	54
27	Zapadni	349	65	40	33	14	501	69
29	Reef and Gorbatch	57	54	19	38	21	189	30
	Total	10,972	1,537	2,076	869	664	16,117	68

EXHIBIT 9.—*Classification of large seals dismissed, St. Paul Island, 1907.*

Date.	Rookery.	4 years.	5 years.	6 years.	7 years.	8 years or over.
June 28	Northeast Point	37	66	30	10	.....
29	Tolstoi	23	17	19	2	.....
July 1	Zapadni	16	29	12	.....	.....
2	Reef and Gorbatch	95	27	12	.....	.....
3	Northeast Point	42	50	23	6	.....
3	Halfway Point	5	22	11	6	.....
5	Zapadni	13	4	12	.....	3
6	Reef and Gorbatch	76	30	9	5	.....
6	Tolstoi	34	14	5	3	.....
8	Northeast Point	14	4	13	2	.....
10	Reef and Gorbatch	24	14	17	10	.....
11	Zapadni	15	8	1	.....	.....
13	Tolstoi	6	3	1	.....	.....
15	Northeast Point	7	3	7	3	2
16	Reef and Gorbatch	26	14	7	2	.....
15	Halfway Point	5	7	6	.....	.....
16	Reef and Gorbatch	26	14	7	2	.....
17	Zapadni	12	1	7	1	.....
18	Tolstoi	2	13	4	.....	.....
20	Northeast Point	.....	10	1	.....	.....
20	Halfway Point	.....	9	4	2	.....
22	Reef and Gorbatch	62	22	28	8	.....
22	Tolstoi	12	13	14	.....	.....
23	Zapadni	28	9	6	.....	.....
25	Northeast Point	7	3	9	2	.....
25	Halfway Point	9	9	5	2	1
26	Reef and Gorbatch	68	24	24	8	.....
27	Zapadni	21	12	4	3	.....
29	Reef	12	3	2	2	.....
	Total	697	454	300	79	6

ST. GEORGE ISLAND, ALASKA, *June 3, 1907.*

SIR: I have the honor to submit herewith a report on the condition of affairs on St. George Island, from August 14, 1906, to the present date.

Vessels.—During the interval between August 14 and September 9 the U. S. S. *Perry* called here 5 times. Twice we were able to communicate with her by boat and 3 times by signals only.

On September 12 a schooner, nationality unknown, appeared off Zapadni. She came to within a mile of the rookery, then sailed away, making no attempt to land.

On October 3 the U. S. S. *McCulloch* anchored at Garden Cove and landed the 2 natives who were sent to Valdez in September as witnesses against the Japanese sealers captured on this island August 5. The *McCulloch* touched here again on October 11, picked up our mail, and sailed immediately for the south. Since that date no vessel has put in here, although on October 24, a steamer, which we took to be the U. S. S. *Thetis*, passed the west end of the island bound south. I was given to understand by Captain Cantwell, of the *McCulloch*, that the *Thetis* would call here for the October mail. That she did not do so was the source of great disappointment.

School.—School opened on the 1st day of September with 12 boys and 10 girls in attendance and was maintained until May 1, 1907. In October one of the male pupils died. A competent teacher was in charge. Early in the season an epidemic of stomach trouble broke out among the scholars and a large number of absences resulted therefrom.

The report of the teacher is herewith inclosed, marked "Exhibit A."

Seals.—Four hundred and fifty-eight seals of the quota of 500 allowed the natives of this island for food were obtained. The first drive was made on October 19, from Staraya Artel, and 220 seals killed; 209 small, 65 3-year-olds, 5 4-year-olds, 6 5-year-olds, 2 6-year-olds, and 4 branded were turned away. Three other drives were made as follows: October 31, Staraya Artel Rookery, 148 seals killed, 12 3-year-olds released; November 9, Staraya Artel and North, 44 seals killed; November 16, North Rookery, 25 seals killed; October 20 to November 10, Zapadni Guards, 21 seals killed.

The last 3 drives were made up entirely of seals pulled out from among the cows by the natives, and as very careful selection had taken place on the rookery very few were turned away from the killing field.

Of the 511 seals which composed the drive of October 19 only 4 bore any signs of having been branded, and these signs were extremely indistinct. No branded seals were seen after this date. It is quite evident that, in the majority of cases, the brands put on in June are by a rapid growth of new fur during the interval from August 1 to October 19 so entirely obliterated that they can not be depended upon to protect the seals during the food killings in the fall. To meet this condition I confined the killing as near as possible to those animals having skins weighing from 5 to 6½ pounds, but despite the most careful and painstaking effort 45 skins weighing over 6½ pounds were taken. (For detailed statement of weights of skins see Exhibit B.)

No dead pups were found on the 2 rookeries which I examined in October, the foxes, as usual, having cleaned them up.

The first bulls of the season were seen April 27 off North Rookery, but it was not until May 1 that they began hauling out.

The first bachelors, 20 in number, hauled out at No. 12, North Rookery, May 9; they were nearly all large 4 and 5 year olds.

On North Rookery, near No. 17, there is now in place on the breeding ground a young bull with a large T brand across his back. This form of brand was in use only in 1899; he is therefore 8 years old. This bull was observed last year, first in the drives and later; when the harems began to break up, he took a stand on the breeding ground, obtained some cows, and was able to maintain himself there.

Foxes.—The fox herd and all the foxing operations during the past season have been entirely under my care and direction.

During the summer the agent of the North American Commercial Company furnished free of cost the necessary amount of salt for the curing of all surplus seal carcasses to be used for fox food, and on the 1st of September he turned over to me 12 tons of fox food consisting of salted salmon and codfish. Throughout the trapping season everything necessary for the trapping and the proper preparation of the skins was also furnished without cost.

Feeding.—I opened the feeding season on September 19 by putting out 2 tubs (328 pounds) of salt fish, of which the foxes ate about one-half. Continued feeding fish daily until November 20, when the diet was changed to salted seal meat, which was fed continuously until about the middle of April. The supply then becoming exhausted, the feeding of fish was resumed. During the months of September, October, December, January, March, and April there were few days in which the amount of food put out was not in excess of that consumed. Only during November and Feb-

many of the foxes eat all that was left them. By the 1st of May large numbers of birds were everywhere about the island, and as the foxes were not eating any of the bait put out for them I stopped further feeding, having still on hand in the neighborhood of 11,000 pounds of salt fish.

The total amount of food known to have been consumed by the foxes from September 15, 1906, to May 1, 1907, was as follows:

	Pounds.
Salt fish	16,000
668 salt seal carcasses (village)	16,000
243 salt seal carcasses (Zapadni)	12,700
Offal of 458 seals	5,000
3 walrus carcasses	5,000
Total	48,700

In addition to this supply of food there came ashore at Zapadni in October a part of a whale, but just how much food it furnished the foxes it is impossible to say.

Trapping.—On being advised by the company's agent, November 20, that he would receive skins, I began trapping on that date and continued to do so until the 14th of February. The 2 regular traps at fox house and barn were used as well as 2 automatic traps, one located at East Landing and the other at the fox house. Four times during the season they were sent to Zapadni, remaining from three to five days each time, and 56 foxes were caught there. A small number were also caught about the village with string traps. Thirty-six trappings were made at the fox house and 6 at the barn. There were also 3 failures at the barn and 1 at the fox house.

The total number of foxes taken was 805, blue and white. Of these 375, 220 blue males, 155 blue females, 4 white males, and 4 white females were killed and 56, 22 blue males and 27 blue females were females and released for breeders. The foxes selected for breeders were the strongest of the herd. No fox was released that was over three years old, and only those were taken the skins of which weighed 10 pounds for males and 7½ pounds for females. I have a three-weeker, 9½ pounds, and one 9½ pounds.

The automatic traps took 56 foxes this season, exactly the same number as last season.

With the exception of a few days in November and February the weather throughout the entire season was as favorable as it could have been for the trapping of foxes. Each fox increased in size from the middle of December and January, and the foxes were not so hard to trap as in November, but were they alert to be seen ranging about the village [illegible] the weather conditions are in that more favorable to fishing off on the shore.

There were a good number of foxes on the island that did not pass through our hands, [illegible] that [illegible] were seen at various times feeding on the salmon, and a bad [illegible] of these foxes were trapped.

During the season I found [illegible] and a suspicion that it was by Mr. Foster. I earmarked [illegible] females and males. [illegible] any of these foxes that would take up to the trap, [illegible] were found. There were no females and with [illegible] I believe from the very small number of these animals [illegible] that males must have penetrated the marks.

The quality of the skins taken this year [illegible] superiority over those of last year.

[illegible] company was [illegible] Nor [illegible] has there been [illegible] inhabitants of the island [illegible] Exhibit C.

Mange. [illegible] that were suffering from mange [illegible] of their fur. [illegible] foxes were treated [illegible] was cured. One other case of the same disease was [illegible] which had been branded. There was but little [illegible] Necessary foxes were found dead, but those that were [illegible] as much as possible the spread of the disease. A [illegible] is submitted herewith marked "Exhibit D."

Dead foxes. The total number of dead foxes [illegible] August, 1906, has been 11. Of these [illegible] were males [illegible] females [illegible] Only one was found to have perforation of the stomach caused by [illegible] the rest the cause of death ascertained.

Decrease in the fox catch.—Last year the total number of foxes caught was 1,044; this year the catch fell to 867. It is my opinion that the decrease is merely in the number of foxes caught and not in the actual number of foxes on the island, and, further, the falling off is directly attributable to unfavorable weather conditions.

During the winter of 1905–6 there was reserved for breeding purposes 551 of the finest and largest foxes that passed through our hands. The foxes were fed during the entire winter, and the amount of food was about equal to that fed during the preceding year. There was no evidence of any great number of deaths either from starvation or disease. There was but little ice around the island during the winter, and a considerable number of unbranded foxes were at large after the trapping season. From these facts it is reasonable to suppose that as many foxes successfully passed through the winter of 1905–6 as did through the winter of 1904–5, and that the season of 1906–7 must have begun with at least as many foxes in the herd as were present the year before. If this supposition is correct, then one of two things happened. Either a large number of foxes died during the fall and early winter of 1906–7, or we failed to catch anything like the whole number of foxes that were on the island. There is not the slightest evidence to show that there was any great mortality among the foxes last winter; on the contrary, the number of dead picked up about the island was considerably less than it has been for some years. No ice reached the island, feeding was abundantly carried on, and a large number of unbranded foxes were seen after the trapping season. The only reasonable explanation left, then, is that the decrease is in the catch and not in the herd itself.

Weather exerts a powerful influence over the number of foxes that go through the trap. When the winter is mild and much rain falls during the trapping season, fewer foxes visit the trap and the catch is light. On the other hand, when the winter is cold and much snow falls a greater number of foxes hang about the village and visit the traps and the catch is larger. This is amply borne out by the record of the past five years. During that period there were two winters of exceptional mildness and great rainfall and on these two winters and these only has there been any great falling off in the catch.

Increase or decrease in the fox herd is mainly governed by the supply of food. Epidemics of disease may cause a decrease, but if the food supply is ample such a decrease will only be temporary. But any great permanent increase in the herd without a corresponding increase in the food supply is simply out of the question. The food supply on this island is derived from two sources, that which is thrown up on the beaches by the sea and that which is artificially provided. The quantity of the former can not in any way be determined, while the amount of the latter can be accurately gauged. For the past five years the amount of artificially provided food has not varied greatly in amount, and I suppose that the amount of food furnished by the beaches does not from year to year vary much. The catches of three of the past five years have been almost identical, 1,011, 1,061, and 1,044, the catch falling in the other two years to 766 and 867. This would seem to indicate that the natural food supply supplemented by that artificially provided has been sufficient to maintain throughout each winter during the past five years enough foxes to bring up the herd each season to somewhere in the neighborhood of a thousand foxes, and it is my opinion that unless the artificial food supply is largely increased we can look to no permanent increase in the herd much beyond this limit.

Pairing of foxes.—The first authentic case of foxes pairing on this island has recently come under my notice. Two foxes, which by the brands on their tails show them to be a male and female, occupy a hole under the lumber house and have there a litter of young ones. Both male and female are busy throughout the day procuring and bringing food to the hole, but the male is particularly active in this direction. Any visiting foxes are promptly driven away.

Stock raising.—The natives' attempt at pig culture has met with considerable success. Two years ago they were allowed to purchase 4 sows and a boar. There is now on the island 26 pigs of various sizes. During the winter a number were killed, which yielded for native use 579 pounds of fresh meat.

Improvements.—The Government house has been thoroughly painted inside and out. Posts sufficient for the construction of a telephone line to East and Starayа Artel rookeries have been secured and distributed.

Public health.—With the exception of an epidemic of gastro-enteritis, which broke out among the natives last fall, the health has been very good. There has been 6 births (2 boys and 4 girls) and 4 deaths (2 males and 2 females). The report of the resident physician is herewith submitted as Exhibit E.

Respectfully,

H. D. CHICHESTER,
Assistant Agent, Department of Commerce and Labor.

Mr. W. I. LEMBKEY,
Agent, Department of Commerce and Labor,
In Charge Seal Fisheries.

EXHIBIT A.

ST. GEORGE ISLAND, ALASKA, *April 30, 1907.*

Mr. H. D. CHICHESTER,
Special Agent, U. S. Department Commerce and Labor,
In Charge St. George Island, Alaska:

As required by the lease of the seal islands of Alaska by the North American Commercial Company, a school for the native children of St. George Island has been maintained for eight months past, and instruction in the English language has been given to all children between the ages of 6 and 16 years.

The school has been attended from September 1 to October 13, 1906, by 12 boys and 10 girls, the remainder of the year by 11 boys and 10 girls, with the exception of absences of one hundred and eighty-two and one-half days, as shown below.

The large inattendance was due to the great amount of sickness occurring in the early part of the year.

The usual vacation of ten days at Christmas, Thanksgiving Day, Washington's Birthday, and four "holy days" of the Russian Church have been observed.

Boys attending school 6 weeks			12
Boys attending school 29½ weeks			11
Girls attending school 35⅛ weeks			10
Pupils attending school end of year			21
Weeks in school year			35⅛
Days in school year			176
Holidays:			
Christmas recess	days	10	
Thanksgiving Day	do	1	
Washington's Birthday	do	1	
Church	do	4	
Total	do		16
School actually in session	days		160½
Absences:			
Excused by Government (4)	do		5½
Excused by doctor (22)	do		177
Total	do		182½
Attendance from September 1 to October 13, 1906 (22 × 30)	days		660
Attendance from October 14, 1906, to April 30, 1907 (21 × 130)	do		2,730
Total			3,390
Less absences	days		182½
Actual attendance for year	do		3,207½
Average daily attendance			20.04

ELDER NANCE,
Teacher for North American Commercial Company.

EXHIBIT B.—*Weights of sealskins taken on St. George Island, fall of 1906.*

Date.	Rookery.	Weights (pounds).														
		3½.	4½.	5.	5¼.	5½.	5¾.	6.	6¼.	6½.	6¾.	7.	7¼.	7½.	8.	9.
Oct. 19	Staraya Artel			26	9	32	13	68	12	26	5	20	1	6		2
19	Zapadni Guards						1		1		1					
23	do				1	3		2								
30	do						1			3		2				
31	Staraya Artel	1	1	33	21	24	27	25	1	8	1	3	1	1	1	
Nov. 9	Staraya Artel and North			9	4	6	15	8	1				1			
10	Zapadni Guards			3	1			2								
16	North			9	2	4	2	6	1	1						
	Total	1	1	80	38	69	59	111	16	38	7	25	3	7	1	2

EXHIBIT C.—*Fox division, season of 1906–7, St. George Island.*

By 366 blue fox skins, at $5	$1,830.00
By 8 white fox skins, at $1	8.00
Total	1,838.00
To 15 first-class men, at $81.10	1,216.50
To 7 second-class men, at $64.95	454.65
To 2 third-class men, at $48.75	97.50
To 2 special-class men	65.00
To 5 gallons coal oil used at well house	2.00
To lumber for repair of pig house	2.35
Total	1,838.00

FIRST CLASS.

1. John Galanin	81.10
2. Rev. Peter Kashavarof	81.10
3. Stepan Lekanof	81.10
4. Demetri Lestenkof	81.10
5. Mike Lestenkof	81.10
6. Nikolai Malavansky	81.10
7. George Merculif	81.10
8. Joseph Merculif	81.10
9. Nikolai Merculif	81.10
10. Nikolai Nedarazof	81.10
11. Andronic Philamonof	81.10
12. Gregory Philamonof	81.10
13. Simeon Philamonof	81.10
14. Peter Prokopief	81.10
15. Manuel Zaharof	81.10

SECOND CLASS.

1. Alexander Galanin	64.95
2. Walter Kashavarof	64.95
3. Trefan Kochooten	64.95
4. Peter Malavansky	64.95
5. Demetri Philimonof	64.95
6. Mike Shane	64.95
7. Gregory Swetzof	64.95

THIRD CLASS.

1. Anatoli Lekanof	48.75
2. John Merculif	48.75

SPECIAL CLASS.

1. Stepan Lekanof, chief	35.00
2. Joseph Merculif, second chief	25.00
Joseph Merculif, hydrant keeper	5.00

I hereby certify that the above division was made by me after conference with the native chiefs on this island.

H. D. CHICHESTER,
Assistant Agent, U. S. Department of Commerce and Labor,
In Charge St. George Island.

I hereby certify that the amounts as above stated have been placed to the credit of the respective natives on the books of the North American Commercial Company.

B. NETHERLAND,
Agent North American Commercial Company.

The division as above made is hereby approved on behalf of the natives of St. George Island.

STEPAN LEKANOFF, *First Chief.*
JOSEPH MERCULIFF, Second Chief.

EXHIBIT E.[a]

ST. GEORGE ISLAND, ALASKA, *June 1, 1907.*

SIR: In reply to your request I submit the following medical report for St. George Island for the year beginning June 1, 1906, and ending May 31, 1907:

As is usually the case on these islands, the balance of the cases treated were either of bronchial or gastro-intestinal origin. During the months of September and October the natives, adults and children, suffered from a gastro-enteritis that practically amounted to an epidemic. The aged and children suffered most severely. One death occurred directly assignable to this cause.

The lack of observance of any of the principles of hygiene and the manner of preparing their food were the only causative factors arrived. The wells furnishing the drinking water were examined, with negative results. The trouble subsided as the colder weather approached. Barring the gastro-enteritis, the general health has been good.

The record of births and deaths is as follows:

Births.

Name of mother.	Sex.	Name of child.	Date.
Marvara Merculif	Daughter	Pariscoya	Nov. 8, 1906
Stepanida Prokopief	do	Mary	Nov. 13, 1906
Zoya Swetzof	do	Agnes	Dec. 2, 1906
Mary Zacharof	Son	Vassili	Jan. 11, 1907
Stepanida Merculif	Daughter	Alexandra	Apr. 3, 1907
Helena Kashavarof	Son	Andrew	Apr. 19, 1907

Deaths.

Name.	Age.	Disease.	Date.
Marka Merculif	21 years	Pulmonary tuberculosis.	Oct. 5, 1906
Andronic Philamonof, jr	6 years	Gastro-enteritis.	Oct. 13, 1906
Agnes Lestinkof	10 months	Inanition	Nov. 26, 1906
Serefina Riazanzof	18 years	Pulmonary tuberculosis.	Dec. 3, 1906

Respectfully,

F. HOLMES SMITH, M. D.

Mr. H. D. CHICHESTER,
Agent, Department of Commerce and Labor,
In Charge St. George Island.

[a] Exhibit D was a skin of a diseased fox.

EXHIBIT F.—*Annual statement of foxes caught on St. George Island, season of 1906–7.*

Date.	Location and style of trap.	Killed.				Released for breeders.	
		Blue.		White.		Blue.	
		Male.	Female.	Male.	Female.	Male.	Female.
1906. Oct. 20 to Nov. 24	Found dead	5					
Nov. 20	East Landing, automatic	8	3			4	11
20	Fox house	21	12	2	1	30	23
20	Barn	11	8			10	17
21	Fox house, automatic	4	1			1	1
22	do					4	1
22	Fox house	27	19			22	31
22	Barn	11	9		1	13	19
22	East Landing, automatic	1	3				1
23	Fox house, automatic		1				1
23	East Landing, automatic	5	1				3
25	do	2	2	1		1	
25	Fox house	14	8	1	1	10	9
25	Barn	3	1			3	3
26	East Landing, automatic		1				
27	do	1	2				3
27	Fox house	14	8			19	19
27	Barn	1	1			4	
28	Zapadni	7	7			17	11
29	East Landing, automatic						1
30	Fox house	3	2			4	4
30	Barn					3	
Dec. 2	East Landing, automatic	1					1
2	Fox house	5	2			4	3
2	Barn	2				1	2
3	Graveyard	1					
5	East Landing, automatic	1					
5	Fox house	2				5	2
5	Barn	1				1	4
7	Fox house	1				1	1
7	Barn	1					
9	East Landing, automatic					1	
11	Zapadni					1	5
11	Fox house	4	6			4	6
11	Barn						2
13	Fox house	3	1			3	5
13	Barn	2	2			2	1
16	Fox house	2	1			2	3
16	Barn	2					
18	Fox house	1	1				
18	Barn	1	1			1	1
19	East Landing, automatic	1	1			1	1
20	Barn					2	
26	Fox house	5	3			5	7
26	Barn	4			1	1	4
27	Village	2	1				2
28	Fox house	3	2			2	4
28	Barn	1				3	2
30	Fox house					1	
30	Barn					2	1
1907. Jan. 2	Fox house	1				2	
2	Barn					1	
4	East Landing, automatic	2	1				1
4	Fox house	4	2			3	2
4	Barn	1				2	1
5	East Landing, automatic		1				
8	do		1				
11	Fox house					1	
17	do	2				2	
20	do	3	3			1	3
20	Barn						1
21	Village		1			3	5
22	Fox house		2			1	2
22	Barn					1	
23	East Landing, automatic	1					
23	Village					2	
24	Fox house	4	2			2	2
24	Barn	1				2	1
25	Village		1				2
26	Zapadni	1	3			1	1
27	Fox house	4	1			3	3
27	Barn		1			1	2
28	Fox house						4
28	Barn	1					1

EXHIBIT F.—*Annual statement of foxes caught on St. George Island, season of 1906–7*—Continued.

Date.	Location and style of trap.	Killed.				Released for breeders.	
		Blue.		White.		Blue.	
		Male.	Female.	Male.	Female.	Male.	Female.
1907.							
Jan 29	Fox house	3	1				3
29	Barn					2	2
30	....do						1
31	Fox house	1					
31	Barn						1
Feb. 1	Fox house	1	1			2	1
1	Barn						1
3	Fox house	3	2			1	1
3	Barn		1				
4	Fox house					2	
5	....do	3				1	
6	....do	1					1
6	Barn	1				1	2
7	Village		1			1	1
7	Fox house	1				1	1
8	Zapadni	1	3				
8	Fox house	1					1
8	Barn					1	4
10	Fox house	4	1			1	1
11	Barn	2	1				1
11	Fox house		1			1	
13	....do					2	2
	Total	231	141	4	4	232	270

EXHIBIT G.—*Approximate ages of foxes released for breeding on St. George Island, season of 1906–7.*

Age.	Male.	Female.
Young, or approximately 1 year old	31	105
Middle-aged:		
2 years old	110	106
3 years old	91	58
Old, or over 3 years		1
Total	232	270

EXHIBIT H.—*Approximate ages of foxes killed on St. George Island, season of 1906–7.*

Age.	Male.	Female.
Young, or approximately 1 year old	102	89
Middle-aged:		
2 years old	95	28
3 years old	26	8
Old, or over 3 years	12	20
Total	235	145

EXHIBIT I.—*Live weights of foxes released for breeding on St. George Island, season of 1906–7.*

Weight.	Male.	Female.	Weight.	Male.	Female.
Pounds.			*Pounds.*		
7½	.....	30	12½	7	5
7¾	.....	7	13	12	3
8	.....	60	13½	2	.....
8¼	.....	8	13¾	4	4
8½	.....	31	14	5	7
8¾	.....	1	14½	3	.....
9	.....	35	14¾	2	.....
9¼	.....	3	15	3	1
9½	1	19	15½	1	.....
9¾	6	.....	16	3	.....
10	54	20	16½	2	.....
10¼	12	2	17	1	1
10½	32	6	18	1	.....
10¾	4	1	19	1	.....
11	38	16	20	1	.....
11½	14	3			
12	22	7		232	270
12¼	1	.....			

EXHIBIT J.—*Live weights of foxes killed on St. George Island, season of 1906–7.*

Weight.	Male	Female.	Weight.	Male.	Female.
Pounds.			*Pounds.*		
4¾	.....	3	8½	37	.....
5	3	2	8¾	4	.....
5¼	2	.....	9	49	5
5½	3	9	9¼	3	.....
5¾	.....	5	9½	23	2
6	7	23	9¾	6	.....
6¼	3	5	10	4	2
6½	11	25	10½	3	.....
6¾	.....	11	11	3	.....
7	13	23	12	3	2
7¼	5	17	13	1	.....
7½	16	2	13½	.....	1
7¾	1	.....			
8	27	8		250	145
8¼	3	.....			

ST. GEORGE ISLAND, *August 7, 1907.*

WALTER I. LEMBKEY, Esq.,
Agent Seal Fisheries, St. Paul Island.

SIR: I herewith transmit the reports named below, covering the work of St. George Island for the season ended July 31, 1907, to wit:

1. Census of native inhabitants of St. George Island, June 30, 1907.
2. Report of counts of rookeries, including bulls and cows, covering dates up to maximum stage of the rookeries.
3. Record of seals dismissed from the drives during the sealing season.
4. Report of sealskins taken during the sealing year ended July 31, 1907.
5. Transcript of weights of skins taken during the sealing year ended July 31, 1907.
6. Seal division of native earnings for taking sealskins for the sealing year ended July 31, 1907.
7. Report of the count of living and dead pups and of dead cows, 1907.

The copy of fox division was forwarded by Mr. Chichester.

The sealing was successfully concluded on July 29. We might have completed it three days earlier. We had no difficulty in getting the 2,600 skins, which you named in your letter of July 17 as the limit of this island's quota for the current year. From the number and size of the seals appearing on the rookeries at the date of our last drive, when we had only 17 skins to take for completing the quota, I am satisfied that we might readily have taken the whole 3,000 named in Department's letter of instructions as a number which might be taken in the event of seals showing here in such numbers as to indicate the presence on this island of seals usually hauling on St. Paul Island. I am convinced that either some of the St. Paul seals are hauling this summer on St. George, driven here by the disturbance made by the

Japanese pelagic sealers at that island, or, at least, that the immunity from the near presence of the Japanese which this island has enjoyed has permitted the seals here to increase through natural causes in greater ratio than has been the increase on St. Paul; and hence the good showing here of young killable seals. At the last drive, alluded to above, we turned away 75 young bachelors of killable size out of a drive made from a single rookery. It appears quite certain that the rate of seal diminution going on here is less marked than it was last year, as witness: (1) The larger than usual number of young male seals appearing in our drives already mentioned. (2) The actual count of pups on North Rookery, which gives a few more pups than last year's count. (3) Personal observation of the rookeries on which pups were not counted, which indicates a condition of less depletion as respects seals of all ages than was apparent last year. We need not place much stress on the decrease of pups on Little East, as that is an isolated, vanishing rookery, which is shrinking away because no bachelors haul there, and young seals do not return.

I present below the maxima of harems and bulls for the last two years, showing the various rookeries:

Rookery.	1906.				1907.			
	Harems.	Bulls in place.	Idle bulls.	Total bulls.	Harems.	Bulls in place.	Idle bulls.	Total bulls.
East Cliffs	34	34	2	36	32	32	4	36
East Reef	15	15	2	17	14	14	6	20
Little East	8	8	0	8	7	7	0	7
North	78	78	6	84	81	81	11	92
Staraya Artel	26	26	0	26	26	26	6	32
Zapadni	34	34	3	37	28	28	6	34
Total	195	195	13	208	188	188	33	221

This presentation shows an apparent gain of 13 bulls over last year. While such statistics are not conclusive evidence, they are yet encouraging, and lead to the belief that the efforts put forth to preserve an adequate breeding force will prove successful. Of course, all our efforts, should the scourge of pelagic sealing, especially in near contiguity to the islands, be permitted to continue its devastating action, are destined to prove futile.

The telephone lines designed for this island, one to East Rookery watchhouse, the other to Staraya Artel Rookery, have been duly installed. Mr. Chichester last spring had collected the necessary poles from driftwood on the beaches, and had caused those in the line to East Rookery to be placed in position. This summer he kindly superintended the work of putting up the remaining poles, stringing the wires, and fully installing the lines. At Staraya Artel a tight box has been erected, provided with lock and key, for holding the receiver and batteries. This line being intended for use only when it is necessary for the native guard near that rookery to communicate with the agent at the village, a house is not provided for the present. The watchmen are not required to remain over night save when vessels are hovering near.

I inclose this day under a separate cover the shipping receipt of sealskins shipped from this island the current year.

Very respectfully,

EZRA W. CLARK,
Assistant Agent, in Charge.

Annual statement of fur seals killed on St. George Island, Alaska, during the year ended July 31, 1907.

Date.	Rookery.	Number of seals killed for natives' food.			Number of seals killed by lessees for skins.				Aggregate.		
		Large young seals.	Total.	Skins accepted by lessees.	Accepted (prime).	Rejected. Under size.	Rejected. For other reasons (overweight).	Total.	Skins accepted.	Skins rejected.	Total number of seals killed.
1906.											
Oct. 19	Staraya Artel	220	220	220	.....	.....	.....	.....	220	.....	220
19	Zapadni, watchman	3	3	3	.....	.....	.....	.....	3	.....	3
23	.....do	6	6	6	.....	.....	.....	.....	6	.....	6
30	.....do	6	6	6	.....	.....	.....	.....	6	.....	6
31	Staraya Artel	148	148	148	.....	.....	.....	.....	148	.....	148
Nov. 9	Staraya Artel and North	44	44	44	.....	.....	.....	.....	44	.....	44
10	Zapadni, watchman	6	6	6	.....	.....	.....	.....	6	.....	6
16	North	25	25	25	.....	.....	.....	.....	25	.....	25
1907.											
June —	Turned over by order of the Department under and over limit skins taken last year	.....	.....	.....	60	.....	.....	60	60	.....	60
—	Zapadni, watchman, food skins	.....	.....	.....	10	.....	.....	10	10	.....	10
7	Staraya Artel	.....	.....	.....	46	.....	.....	46	46	.....	46
17	North	.....	.....	.....	16	.....	.....	16	16	.....	16
21	.....do	.....	.....	.....	32	.....	.....	32	32	.....	32
29	North, Staraya Artel, and East	.....	.....	.....	139	3	.....	139	139	3	142
July 2	Zapadni	.....	.....	.....	29	.....	.....	29	29	.....	29
3	North and East	.....	.....	.....	303	2	3	298	298	5	303
8	.....do	.....	.....	.....	217	1	1	217	217	2	219
10	Zapadni	.....	.....	.....	50	1	.....	50	50	1	51
12	North, Staraya Artel, and East	.....	.....	.....	281	.....	3	281	281	3	284
16	.....do	.....	.....	.....	276	3	.....	276	276	3	279
19	Zapadni	.....	.....	.....	91	.....	1	91	91	1	92
20	North and East	.....	.....	.....	227	1	.....	227	227	1	228
22	Staraya Artel	.....	.....	.....	83	.....	.....	83	83	.....	83
24	North and East	.....	.....	.....	215	.....	.....	215	215	.....	215
25	Zapadni and East, watchman	.....	.....	.....	36	.....	.....	36	36	.....	36
29	North	.....	.....	.....	17	.....	.....	17	17	.....	17
	Total	458	458	458	2,128	11	8	2,147	2,581	19	2,600

NOTE.—Nineteen skins are retained in salt under control of the Government agent, being over or under weight, as fixed by the Department.

Seal division, St. George Island, August 4, 1907.

By 2,581 sealskins, at 75 cents		$1,935.75
To 14 men of first class, at $79.35	$1,110.90	
To 7 men of second class, at $63.45	444.15	
To 2 men of third class, at $47.65	95.30	
To 4 men of third class, at $47.60	190.40	
To 2 men of special class, at $40 and $35	75.00	
To 1,000 pounds of food for pigs	20.00	
		1,935.75

FIRST CLASS.

1. Galanin, John	79.35
2. Lekanoff, Stepan	79.35
3. Lestenkoff, Dimitri	79.35
4. Lestenkoff, Michael	79.35
5. Malavansky, Nicolai	79.35
6. Merculioff, George	79.35
7. Merculioff, Joseph	79.35

8. Merculioff, Nicolai	$79.35
9. Philimonoff, Andronic	79.35
10. Philimonoff, Gregory	79.35
11. Philimonoff, Simeon	79.35
12. Prokopioff, Peter	79.35
13. Zacharoff, Emanuel	79.35
14. Kashivaroff, Peter, priest	79.35

SECOND CLASS.

1. Galanin, Alexander	63.45
2. Kashivaroff, Walter	63.45
3. Malavansky, Peter	63.45
4. Niderezoff, Nicolai	63.45
5. Philimonoff, Dimitri	63.45
6. Shane, Michael	63.45
7. Swetzoff, Gregory	63.45

THIRD CLASS.

1. Lekanoff, Anatoli	47.65
2. Merculioff, John	47.65
3. Lekanoff, Sergius	47.60
4. Merculioff, Stepan	47.60
5. Niderezoff, Isidor	47.60
6. Buterin, Constantine	47.60

SPECIAL CLASS.

Stepan Lekanoff, as chief	40.00
Joseph Merculioff, as second chief	35.00

The seal division as above made is hereby approved on behalf of the natives of St. George Island.

STEPAN LEKANOFF, *First Chief.*
JOSEPH MERCULIOFF, *Second Chief.*

I certify that the amounts indicated herein have been placed to the credit of the respective natives on the books of the North American Commercial Company.

THE NORTH AMERICAN COMMERCIAL COMPANY,
By B. NETHERLAND, *Agent.*

I certify that the foregoing seal division was made by me after conference with the native chiefs.

EZRA W. CLARK,
Assistant Agent, Department of Commerce and Labor,
In Charge St. George Island.

Transcript of weights of sealskins, season of 1907, St. George Island, Alaska.

Date.	Rookery.	Weights (pounds).																					
		3½.	4½.	4¾.	5.	5¼.	5½.	5¾.	6.	6¼.	6½.	6¾.	7.	7¼.	7½.	7¾.	8.	8¼.	8½.	8¾.	9.
1906.																							
Oct. 19	Staraya Artel				26	9	32	13	68	12	26	5	20	1	6							2
19–30	Zapadni, watchman, skins					1	3	2	2	1	3	1	2									
31	Staraya Artel	1	1		33	21	24	27	25	1	8	1	3	1	1		1					
Nov. 9	Staraya Artel and North				9	4	6	15	8	1				1								
10	Zapadni, watchman				3	1			2													
16	North				9	2	4	2	6	1	1											
1907.																							
June 7	Staraya Artel				2	1	6	3	6		3	1	8	1	10	3	1	1				
17	North									2	1		1		3	5	3	3				
29	Zapadni, watchman						4			2	2											
21	North				2	4	2	5	2	6	1	5	1	1	2	1						
29	North, East, and Staraya Artel		3		23	15	20	10	31	1	11	3	13	3	5	1	3					
July 3	North and East		1	1	14	26	37	20	65	8	52	7	34	2	19	4	7	1	2	1	3	
8	....do		1		23	19	33	16	56	6	24	3	22	6	4		4	1				
10	Zapadni			1	6	7	8	5	9		7	1	3	2	1		1					

Transcript of weights of sealskins, season of 1907, St. George Island, Alaska—Continued.

Date.	Rookery.	Weights (pounds.)																				
		3½.	4½.	4¾.	5.	5¼.	5½.	5¾.	6.	6¼.	6½.	6¾.	7.	7¼.	7½.	7¾.	8.	8¼.	8½.	8¾.	9.
1907.																						
July 12	North, Staraya Artel, and East	...	...	...	10	4	29	3	75	6	50	7	58	2	20	1	11	2	3	1	2
16	do	...	1	2	26	25	59	15	53	16	38	8	22	3	6	2	1	1	1	...	...
19	Zapadni	...	...	...	7	7	10	5	19	7	18	4	6	...	5	...	3	...	...	...	1
20	North and East	...	...	1	8	10	35	13	59	21	38	10	23	2	5	1	1	...	...	1	...
22	Staraya Artel	...	...	...	...	3	8	2	20	7	19	3	15	...	6	...	...	...	...	...	...
24	North and East	...	...	...	20	17	48	10	52	12	25	5	16	2	2	2	2	2	...	...	...
25	Zapadni and East, watchman	...	...	...	3	2	7	4	9	6	...	1	2	...	...	...	1	1	...	...	...
29	North	...	...	...	...	...	3	1	6	1	2	1	2	...	...	...	...	1	...	...	...
	Total	1	7	5	224	178	378	171	573	117	329	66	251	27	95	20	39	13	6	3	8

NOTE.—The food skins which are over or under limit of weight are not included in the aggregates above given, as the company agent was not responsible for taking them.

Seals dismissed from the drives, St. George Island, season of 1907.

Date.	Rookery.	Marked this year.	Too small.	4 years old.	5 years old.	6 years old.	7 years old.	Cows.	Total dismissed.	
									Small and marked.	Large.
June 7	Staraya Artel	1	18	74	22	...	...	...	19	96
17	North	17	5	10	25	5	5	...	22	45
21	do	15	7	15	10	...	...	...	22	25
21	Staraya Artel	5	2	31	21	20	6	...	7	78
25	East	64	2	61	15	20	14	...	66	110
29	North, Staraya Artel, and East	61	23	27	24	13	...	...	84	64
July 2	Zapadni	21	18	11	2	12	4	...	39	29
3	North and Staraya Artel	83	99	41	43	29	24	...	182	137
7	North and East	50	121	17	5	12	4	...	171	38
10	Zapadni	30	19	5	2	8	6	...	49	21
12	North, Staraya Artel, and East	89	72	17	9	4	6	...	161	36
16	North Staraya Artel, and East	113	279	16	20	12	5	...	392	53
19	Zapadni	37	17	7	4	11	6	...	54	28
20	North and East	53	137	18	9	7	3	...	190	37
22	Staraya Artel	35	30	7	4	4	1	...	65	16
24	North and East	49	66	10	2	2	3	...	115	17
25	Zapadni	10	12	3	3	3	3	59	22	12
29	North [a]	19	19	10	3	6	5	...	38	24
	Total	752	946	380	223	168	95	...	1,689	866

[a] The drive of North Rookery on July 29, did not include the whole rookery bachelors present, as only 19 seals were required. Seventy-five fine young seals were let go from this drive which were killable.

NOTE.—Many of the seals included in the numbers above given appeared in several drives during the season. The white seal, now 4 or 5 years old, appeared three times and was seen by me afterwards upon the rookery.

Data from rookery counts, St. George Island, season of 1907.

LITTLE EAST.

Date of count.	Bulls in place.	Harems.	Cows.	Bulls idle.
June 2	7	...	...	...
June 4	7	...	...	...
June 10	7	...	...	...
June 12	7	...	...	...
June 19	7	...	...	...
July 8	7	...	...	...
July 10	7	7	142	...
July 14	7	7	[a] 183	...
July 16	7	7	101	...

[a] Evidently the maximum.

Data from rookery counts, St. George Island, season of 1907—Continued.

EAST REEF.

Date of count.	Bulls in place.	Harems.	Cows.	Bulls idle.
June 2	11			
June 4	11			2
June 10	12			2
June 12	10			
June 19	12			3
July 8	12	12		3
July 10	14	14	492	4
July 14	14	14	[a] 640	6

NORTH.

June 3	55			2
June 5	58			4
June 9	58			4
June 12	60			4
June 18	70	0	18	2
July 5	71	71		7
July 9	73	73	2,492	6
July 14	81	81	[b] 2,889	11

STARAYA ARTEL.

June 5	19			4
June 12	20			4
June 15	26		[c] 1,300	6

ZAPADNI.

June 19	24			
June 27	22			
July 15	28		[c] 1,400	6

EAST CLIFFS.

June 2	17			
June 4	19			2
June 10	21			2
June 12	23	1	1	1
June 19	23	11	16	3
July 10	30	30	1,203	3
July 14	32	32	[a] 1,708	4

[a] Evidently the maximum. [b] The maximum. [c] Estimated; impracticable to count.

Total number of bulls with harems	188
Idle young bulls	33
Cows, including those estimated, present at maximum of rookeries	8,120

Census, St. George Island, on June 30, 1907.

Name of individual.	Family relation.	Age.	Date of birth.
Galanin, Alexander	Husband	21	Sept. 11, 1880
Galanin, Mary	Wife	16	June 22, 1891
Galanin, Akalina	Mother	45	———, 1862
Galanin, John	Husband	25	Sept. 30, 1881
Galanin, Anna	Wife	25	.....
Galanin, Fevronia	Widow	29	June 25, 1877
Swetzoff, Paul	Brother	14	July 8, 1892
Kashivaroff, Walter	Husband	19	Feb. 2, 1887
Kashivaroff, Helena	Wife	23	May 27, 1884
Kashivaroff, Andrew	Son	([a])	Apr. 19, 1907
Lekanoff, Stepan	Husband	37	Nov. 9, 1869
Lekanoff, Pelagia	Wife	37	Oct. 20, 1869
Lekanoff, Anatoli	Son	17	Apr. 13, 1890

[a] Infant.

Census, St. George Island, on June 30, 1907—Continued.

Name of individual.	Family relation.	Age.	Date of birth.
Lekanoff, Sergius	Son	15	Oct. 6, 1891
Lekanoff, Sara	Daughter	13	Aug. 30, 1893
Lekanoff, Marina	do	12	Mar. 9, 1895
Lekanoff, George	Son	10	Apr. 7, 1897
Lestenkoff, Dimitri	Husband	45	May 27, 1862
Lestenkoff, Alexandra	Wife	27	May 5, 1879
Lestenkoff, Elizabeth	Mother	72	Sept. 16, 1834
Lestenkoff, Constantine	Son	8	Sept. 29, 1898
Lestenkoff, Michael	Husband	34	Oct. 12, 1872
Lestenkoff, Oulita	Wife	37	Oct. 20, 1869
Lestenkoff, Innokenty	Son	10	Sept. 25, 1896
Lestenkoff, Anna	Daughter	8	Sept. 30, 1898
Malavansky, Nicoli	Husband	42	Dec. 18, 1864
Malavansky, Fedosia	Wife	26	Apr. 15, 1881
Malavansky, Peter	Bachelor	19	Jan. 22, 1888
Malavansky, Ripsimia	Mother	49	——, 1858
Malavansky, Wassie	Spinster	32	Aug. 22, 1874
Malavansky, Christopher	Nephew	3	June 8, 1904
Merculioff, George	Husband	33	Nov. 15, 1873
Merculioff, Stepanida	Wife	28	Dec. 21, 1878
Merculioff, Peter	Son	8	July 10, 1899
Merculioff, Sophia	Daughter	5	Sept. 29, 1891
Merculioff, George, jr	Son	4	Apr. 29, 1902
Merculioff, Nicoli	do	1	Nov. 26, 1905
Merculioff, Alexandra	Daughter	(a)	Apr. 3, 1907
Merculioff, Martha	Sister	14	July 8, 1893
Merculioff, Joseph	Husband	35	Mar. 17, 1872
Merculioff, Marvara	Wife	28	May 14, 1879
Merculioff, Parascovia	Daughter	(a)	Nov. 8, 1906
Merculioff, John	Brother	17	Jan. 18, 1890
Merculioff, Nicoli	Husband	27	May 19, 1880
Merculioff, Matrona	Wife	24	Oct. 28, 1883
Merculioff, Lavrenty	Son	4	Sept. 8, 1902
Merculioff, Benjamin	do	1	Oct. 28, 1905
Merculioff, Elizabeth	Daughter	(a)	June 3, 1907
Merculioff, Wassalis	Widow	56	Jan. 20, 1851
Merculioff, Alexandra	Daughter	29	Apr. 21, 1878
Niderezoff, Nicoli	Bachelor	29	Dec. 18, 1877
Niderezoff, Efghenia	Mother	53	Jan. 5, 1854
Niderezoff, Isidor	Brother	16	Feb. 15, 1891
Philimonoff, Andronic	Husband	40	Oct. 24, 1867
Philimonoff, Zenobia	Wife	40	Nov. 12, 1866
Philimonoff, Marina	Daughter	17	May 12, 1890
Philimonoff, Leonti	Son	13	May 6, 1894
Philimonoff, Alexandra	Daughter	11	Apr. 25, 1896
Philimonoff, Eoff	Son	5	June 8, 1902
Philimonoff, Gregory	Husband	34	Oct. 18, 1872
Philimonoff, Malania	Wife	33	Jan. 12, 1874
Philimonoff, Dimitri	Brother	21	May 25, 1886
Philimonoff, Paul	Nephew	11	July 11, 1896
Philimonoff, Simeon	Husband	56	Aug. 3, 1850
Philimonoff, Evadotia	Wife	35	Feb. 28, 1871
Philimonoff, Zoya	Daughter	14	Nov. 12, 1892
Philimonoff, Joseph	Son	13	Feb. 4, 1894
Philimonoff, Ignati	do	7	Dec. 29, 1899
Philimonoff, Julia	Daughter	5	Mar. 12, 1902
Philimonoff, Helena	do	3	Apr. 10, 1904
Prokopioff, Peter	Husband	43	May 29, 1864
Prokopioff, Stepanida	Wife	30	Nov. 18, 1876
Prokopioff, Martha	Daughter	11	Mar. 8, 1896
Prokopioff, Marina	do	9	Mar. 5, 1898
Prokopioff, Alexander	Son	5	May 1, 1902
Prokopioff, Lavrenty	do	3	Aug. 20, 1903
Prokopioff, Euphronia	Daughter	2	July —, 1905
Prokopioff, Mary	do	(a)	Nov. 17, 1906
Shane, Michael	Bachelor	19	Oct. 13, 1887
Shane, Raiesse	Mother	55	—— 1852
Merculioff, Stepan	Cousin	16	Sept. 27, 1890
Oustigoff, Anfessia	Foster daughter	12	Apr. 21, 1895
Swetzoff, Gregory	Husband	21	Nov. 29, 1885
Swetzoff, Zoe	Wife	20	
Swetzoff, Agnes	Daughter	(a)	Dec. 2, 1906
Zacharoff, Emanuel	Husband	27	July 1, 1880
Zacharoff, Mary	Wife	33	Apr. 1, 1874
Zacharoff, Daria	Daughter	5	Apr. 2, 1902
Zacharoff, Kate	do	1	Dec. 7, 1905
Zacharoff, William	Son	(a)	Jan. 11, 1906
PRIEST'S FAMILY.			
Kashivaroff, Peter, priest	Husband	50	Mar. 3, 1857
Kashivaroff, Anna	Wife	42	Jan. 17, 1865
Pavloff, Katrina	Niece	13	Dec. 2, 1893

a Infant.

Natives entirely supported by the North American Commercial Company	6
Natives furnished with clothing only by North American Commercial Company	2
Marriages during the year	3
Births during the year	7
Deaths during the year	5
Total native inhabitants now present (males 44, females 49)	93

The foregoing is a correct census of St. George Island, Alaska, on June 30, 1907.

EZRA W. CLARK,
Assistant Agent Seal Fisheries, in Charge.

ISLAND OF ST. GEORGE,
Bering Sea, Alaska, August 12, 1907.

This is to certify that 2,589 fur-seal skins have this day been shipped on board the North American Commercial Company's steamship *Homer*, consigned to the North American Commercial Company, San Francisco, Cal.

EZRA W. CLARK,
Assistant Agent, Department of Commerce and Labor, in Charge.

Shipper's load and count. All on board to be discharged.

A. DONALDSON, *Master Steamer Homer.*

ST. GEORGE ISLAND, ALASKA, *August 7, 1907.*

SIR: I beg to present the following report of the count of pups on this island for the current season: July 31, North Rookery, live pups, 4,108; dead pups, 77; dead cows, 2. July 31, Little East Rookery, live pups, 200; dead pups, 2.

The counting of pups on the other rookeries was omitted, owing to the presence of the Japanese sealers within the 60-mile zone, and in the near vicinity of the seal islands, as determined upon in our conference on the subject in June last.

Very respectfully,

EZRA W. CLARK,
Assistant Agent, in Charge.

Mr. W. I. LEMBKEY,
Agent Seal Fisheries, St. Paul Island, Alaska.

ST. GEORGE ISLAND, *August 14, 1907.*

DEAR MR. LEMBKEY: It has occurred to me that you may wish a formal statement regarding the marking of the young male seals at this island for a breeding reserve. The following is a statement in detail:

Date.	Rookery.	2 years old.	3 years old.	4 years old.
June 12	Staraya Artel	29	32	20
17	North	14	14	11
19	Zapadni	14	18	15
20	East	26	28	15
21	Staraya Artel	68	61	6
25	East	38	37	14
27	Zapadni	11	12	4
	Total	200	202	85

While the marking of 4-year-old seals is not enjoined, I deemed it wise to mark those which the natives caught, believing that if they would make the error of taking these seals for three years old when we were branding they were likely to make a similar error when we came to killing, and it was a good plan to render such seals immune for the season.

Our selection of seals for breeding was of the first class, and the marks remain as conspicuous now as when first applied.

Very respectfully,

EZRA W. CLARK,
Assistant Agent, in Charge.

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60TH CONGRESS, 1st Session. } SENATE. { DOCUMENT No. 379.

REPORT ON A NATIONAL BANK.

Mr. FLINT presented the following

REPORT ON A NATIONAL BANK, DATED TREASURY DEPARTMENT, DECEMBER 13, 1790, BY ALEXANDER HAMILTON.

MARCH 12, 1908.—Ordered to be printed.

TREASURY DEPARTMENT, *Dec. 13, 1790.*

In obedience to the order of the House of Representatives, of the ninth day of August last, requiring the Secretary of the Treasury to prepare and report, on this day, such further provision as may, in his opinion, be necessary for establishing the Public Credit—the said Secretary further respectfully reports,

That from a conviction that a National Bank is an institution of primary importance to the prosperous administration of the finances, and would be of the greatest utility in the operations connected with the support of the Public Credit, his attention has been drawn to devising the plan of such an institution, upon a scale which will entitle it to the confidence, and be likely to render it equal to the exigencies, of the public.

Previously to entering upon the detail of this plan, he entreats the indulgence of the House, towards some preliminary reflections naturally arising out of the subject, which he hopes will be deemed neither useless nor out of place. Public opinion being the ultimate arbiter of every measure of government, it can scarcely appear improper, in deference to that, to accompany the origination of any new proposition with explanations, which the superior information, of those to whom it is immediately addressed, would render superfluous.

It is a fact well understood, that public banks have found admission and patronage among the principal and most enlightened commercial nations. They have successively obtained in Italy, Germany, Holland, England, and France, as well as in the United States. And it is a circumstance which cannot but have considerable weight, in a candid estimate of their tendency, that after an experience of centuries, there exists not a question about their utility in the countries in which they have been so long established. Theorists and men of business unite in the acknowledgment of it.

Trade and industry, wherever they have been tried, have been indebted to them for important aid. And government has been

repeatedly under the greatest obligations to them, in dangerous and distressing emergencies. That of the United States, as well in some of the most critical conjunctures of the late war, as since the peace, has received assistance from those established among us, with which it could not have dispensed.

With this two-fold evidence before us, it might be expected, that there would be a perfect union of opinions in their favour. Yet doubts have been entertained; jealousies and prejudices have circulated; and though the experiment is every day dissipating them, within the spheres in which effects are best known; yet there are still persons by whom they have not been entirely renounced. To give a full and accurate view of the subject, would be to make a treatise of a report; but there are certain aspects in which it may be cursorily exhibited, which may perhaps conduce to a just impression of its merits. These will involve a comparison of the advantages with the disadvantages, real or supposed, of such institutions.

The following are among the principal advantages of a Bank:—

First. The augmentation of the active or productive capital of a country. Gold and silver, where they are employed merely as the instruments of exchange and alienation, have been not improperly denominated dead stock; but when deposited in banks, to become the basis of a paper circulation, which takes their character and place, as the signs or representatives of value, they then acquire life, or, in other words, an active and productive quality. This idea, which appears rather subtil and abstract, in a general form, may be made obvious and palpable, by entering into a few particulars. It is evident, for instance, that the money which a merchant keeps in his chest, waiting for a favourable opportunity to employ it, produces nothing till that opportunity arrives. But if, instead of locking it up in this manner, he either deposits it in a bank, or invests it in the stock of a bank, it yields a profit during the interval, in which he partakes, or not, according to the choice he may have made of being a depositor or a proprietor; and when any advantageous speculation offers, in order to be able to embrace it, he has only to withdraw his money, if a depositor, or if a proprietor, to obtain a loan from the bank, or to dispose of his stock; an alternative seldom or never attended with difficulty, when the affairs of the institution are in a prosperous train. His money thus deposited or invested, is a fund upon which himself and others can borrow to a much larger amount. It is a well established fact, that banks in good credit can circulate a far greater sum than the actual quantum of their capital in gold and silver. The extent of the possible excess seems indeterminate; though it has been conjecturally stated at the proportions of two and three to one. This faculty is produced in various ways. First—A great proportion of the notes which are issued and pass current as cash, are indefinitely suspended in circulation, from the confidence which each holder has, that he can at any moment turn them into gold and silver. Secondly—Every loan which a bank makes, is, in its first shape, a credit given to the borrower on its books, the amount of which it stands ready to pay, either in its own notes, or in gold or silver, at his option. But, in a great number of cases, no actual payment is made in either. The borrower frequently, by a check or order, transfers his credit to some other person, to whom he has a payment to make; who, in his turn, is as often content with a

similar credit, because he is satisfied that he can, whenever he pleases, either convert it into cash, or pass it to some other hand, as an equivalent for it. And in this manner the credit keeps circulating, performing, in every stage, the office of money, till it is extinguished by a discount with some person who has a payment to make to the bank, to an equal or greater amount. Thus large sums are lent and paid, frequently through a variety of hands, without the intervention of a single piece of coin. Thirdly—There is always a large quantity of gold and silver in the repositories of the bank, besides its own stock, which is placed there with a view, partly to its safe keeping, and partly to the accommodation of an institution, which is itself a source of general accommodation. These deposits are of immense consequence in the operations of a bank. Though liable to be re-drawn at any moment, experience proves, that the money so much oftener changes proprietors than place, and that what is drawn out is generally so speedily replaced, as to authorize the counting upon the sums deposited, as an *effective fund;* which, concurring with the stock of the bank, enables it to extend its loans, and to answer all the demands for coin, whether in consequence of those loans, or arising from the occasional return of its notes.

These different circumstances explain the manner in which the ability of a bank to circulate a greater sum than its actual capital in coin, is acquired. This, however, must be gradual; and must be preceded by a firm establishment of confidence; a confidence which may be bestowed on the most rational grounds; since the excess in question will always be bottomed on good security of one kind or another. This every well-conducted bank carefully requires, before it will consent to advance either its money or its credit; and where there is an auxiliary capital, (as will be the case in the plan hereafter submitted,) which, together with the capital in coin, define the boundary that shall not be exceeded by the engagements of the bank, the security may, consistently with all the maxims of a reasonable circumspection, be regarded as complete.

The same circumstances illustrate the truth of the position, that it is one of the properties of banks to increase the active capital of a country. This, in other words, is the sum of them—The money of one individual, while he is waiting for an opportunity to employ it, by being either deposited in the bank for safe-keeping, or invested in its stock, is in a condition to administer to the wants of others, without being put out of his own reach, when occasion presents. This yields an extra profit, arising from what is paid for the use of his money by others, when he could not himself make use of it; and keeps the money itself in a state of incessant activity. In the almost infinite vicissitudes and competitions of mercantile enterprise, there never can be danger of an intermission of demand, or that the money will remain for a moment idle in the vaults of the bank. This additional employment given to money, and the faculty of a bank to lend and circulate a greater sum than the amount of its stock in coin, are to all the purposes of trade and industry, an absolute increase of capital. Purchases and undertakings, in general, can be carried on by any given sum of bank paper or credit, as effectually as by an equal sum of gold and silver. And thus by contributing to enlarge the mass of industrious and commercial enterprise, banks become

nurseries of national wealth: a consequence, as satisfactorily verified by experience, as it is clearly deducible in theory.

Secondly. Greater facility to the government in obtaining pecuniary aids, especially in sudden emergencies. This is another, and an undisputed advantage of public banks: one, which, as already remarked, has been realized in signal instances among ourselves. The reason is obvious: The capitals of a great number of individuals are, by this operation, collected to a point, and placed under one direction. The mass formed by this union is, in a certain sense, magnified by the credit attached to it. And while this mass is always ready, and can at once be put in motion, in aid of the government, the interest of the bank to afford that aid, independent of regard to the public safety and welfare, is a sure pledge for its disposition to go as far in its compliances, as can in prudence be desired. There is, in the nature of things, as will be more particularly noticed in another place, an intimate connexion of interest between the government, and the bank, of a nation.

Thirdly. The facilitating of the payment of taxes. This advantage is produced in two ways. Those who are in a situation to have access to the bank, can have the assistance of loans to answer with punctuality the public calls upon them. This accommodation has been sensibly felt in the payment of the duties heretofore laid, by those who reside where establishments of this nature exist. This, however, though an extensive, is not an universal, benefit. The other way in which the effect here contemplated is produced, and in which the benefit is general, is the increasing of the quantity of circulating medium, and the quickening of circulation. The manner in which the first happens has already been traced. The last may require some illustration. When payments are to be made between different places, having an intercourse of business with each other, if there happen to be no private bills at market, and there are no bank notes which have a currency in both, the consequence is, that coin must be remitted. This is attended with trouble, delay, expense, and risk. If, on the contrary, there are bank notes current in both places, the transmission of these by the post, or any other speedy or convenient conveyance, answers the purpose; and these again, in the alternations of demand, are frequently returned very soon after to the place from whence they were first sent; whence the transportation and retransportation of the metals are obviated; and a more convenient, and more expeditious medium of payment is substituted. Nor is this all—The metals, instead of being suspended from their usual functions, during this process of vibration from place to place, continue in activity, and administer still to the ordinary circulation; which of course is prevented from suffering either diminution or stagnation.

These circumstances are additional causes of what, in a practical sense, or to the purposes of business, may be called greater plenty of money. And it is evident, that whatever enhances the quantity of circulating money, adds to the ease with which every industrious member of the community may acquire that portion of it, of which he stands in need: and enables him the better to pay his taxes, as well as to supply his other wants. Even where the circulation of the bank paper is not general, it must still have the same effect, though *in a less degree*. For whatever furnishes additional supplies to the

channels of circulation, in one quarter, naturally contributes to keep the streams fuller elsewhere. This last view of the subject, serves both to illustrate the position, that banks tend to facilitate the payment of taxes; and to exemplify their utility to business of every kind, in which money is an agent.

It would be to intrude too much on the patience of the House, to prolong the details of the advantages of banks; especially as all those, which might still be particularized, are readily to be inferred as consequences from those which have been enumerated. Their disadvantages, real or supposed, are now to be reviewed. The most serious of the charges which have been brought against them, are—

That they serve to increase usury:

That they tend to prevent other kinds of lending:

That they furnish temptations to over-trading:

That they afford aid to ignorant adventurers, who disturb the natural and beneficial course of trade:

That they give to bankrupt and fraudulent traders a fictitious credit, which enables them to maintain false appearances, and to extend their impositions: And lastly,

That they have a tendency to banish gold and silver from the country.

There is great reason to believe, that on a close and candid survey, it will be discovered, that these charges are either without foundation, or that as far as the evils they suggest have been found to exist, they have proceeded from other, or partial, or temporary causes; are not inherent in the nature, and permanent tendency, of such institutions; or are more than counterbalanced by opposite advantages. This survey shall be had, in the order in which the charges have been stated. The first of them is—

That banks serve to increase usury.

It is a truth, which ought not to be denied, that the method of conducting business, which is essential to bank operations, has, among us, in particular instances, given occasion to usurious transactions. The punctuality in payments, which they necessarily exact, has sometimes obliged those who have adventured beyond both their capital and *credit*, to procure money, at any price, and consequently to resort to usurers for aid.

But experience and practice gradually bring a cure to this evil. A general habit of punctuality among traders, is the natural consequence of the necessity of observing it with the bank; a circumstance which itself more than compensates for any occasional ill which may have sprung from that necessity, in the particular under consideration. As far, therefore, as traders depend on each other for pecuniary supplies, they can calculate their expectations with greater certainty; and are in proportionably less danger of disappointments, which might compel them to have recourse to so pernicious an expedient as that of borrowing at usury; the mischiefs of which, after a few examples, naturally inspire great care in all but men of desperate circumstances, to avoid the possibility of being subjected to them. One, and not the least of the evils incident to the use of that expedient, if the fact be known, or even strongly suspected, is loss of credit with the bank itself.

The directors of a bank too, though in order to extend its business and its popularity, in the infancy of an institution, they may be

tempted to go further in accommodation, than the strict rules of prudence will warrant, grow more circumspect of course, as its affairs become better established, and as the evils of too great facility are experimentally demonstrated. They become more attentive to the situation and conduct of those with whom they deal; they observe more narrowly their operations and pursuits; they economize the credit they give to those of suspicious solidity; they refuse it to those whose career is more manifestly hazardous: In a word, in the course of practice, from the very nature of things, the *interest*, will make it the *policy*, of a bank, to succour the wary and industrious; to discredit the rash and unthrifty; to discountenance both usurious lenders and usurious borrowers.

There is a leading view, in which the tendency of banks will be seen to be, to abridge rather than to promote, usury. This relates to their property of increasing the quantity and quickening the circulation, of money. If it be evident, that usury will prevail or diminish, according to the proportion which the demand for borrowing, bears to the quantity of money at market to be lent; whatever has the property just mentioned, whether it be in the shape of paper or coin, by contributing to render the supply more equal to the demand, must tend to counteract the progress of usury.

But bank lending, it is pretended, is an impediment to other kinds of lending; which, by confining the resource of borrowing to a particular class, leaves the rest of the community more destitute, and therefore more exposed to the extortions of usurers. As the profits of bank stock exceed the legal rate of interest, the possessors of money, it is argued, prefer investing it in that article, to lending it at this rate; to which there are the additional motives of a more prompt command of the capital, and of more frequent and exact returns, without trouble or perplexity in the collection. This constitutes the second charge which has been enumerated.

The fact on which this charge rests, is not to be admitted without several qualifications; particularly in reference to the state of things in this country. *First*—The great bulk of the stock of a bank will consist of the funds of men in trade, among ourselves, and monied foreigners; the former of whom could not spare their capitals out of their reach, to be invested in loans for long periods, on mortgages, or personal security; and the latter of whom would not be willing to be subjected to the casualties, delays and embarrassments of such a disposition of their money in a distant country. *Secondly*—There will always be a considerable proportion of those who are properly the money lenders of a country, who, from that spirit of caution which usually characterizes this description of men, will incline rather to vest their funds in mortgages on real estate, than in the stock of a bank, which they are apt to consider as a more precarious security.

These considerations serve in a material degree to narrow the foundation of the objection, as to the point of fact. But there is a more satisfactory answer to it. The effect supposed, as far as it has existence, is temporary. The reverse of it takes place in the general, and permanent operation of the thing.

The capital of every public bank will of course be restricted within a certain defined limit. It is the province of legislative prudence so to adjust this limit, that while it will not be too contracted for the

demand, which the course of business may create, and for the security which the public ought to have for the solidity of the paper which may be issued by the bank, it will still be within the compass of the pecuniary resources of the community; so that there may be an easy practicability of completing the subscriptions to it. When this is once done, the supposed effect of necessity ceases. There is then no longer room for the investment of any additional capital. Stock may indeed change hands by one person selling and another buying; but the money which the buyer takes out of the common mass to purchase the stock, the seller receives and restores to it. Hence the future surplusses which may accumulate, must take their natural course, and lending at interest must go on as if there were no such institution.

It must indeed flow in a more copious stream. The bank furnishes an extraordinary supply for borrowers, within its immediate sphere. A larger supply consequently remains for borrowers elsewhere. In proportion as the circulation of the bank is extended, there is an augmentation of the aggregate mass of money for answering the aggregate mass of demand. Hence greater facility in obtaining it for every purpose.

It ought not to escape without a remark, that as far as the citizens of other countries become adventurers in the bank, there is a positive increase of the gold and silver of the country. It is true, that from this a half yearly rent is drawn back, accruing from the dividends upon the stock. But as this rent arises from the employment of the capital, by our own citizens, it is probable, that it is more than replaced by the profits of that employment. It is also likely, that a part of it is, in the course of trade, converted into the products of our country: and it may even prove an incentive, in some cases, to emigration to a country in which the character of citizen is as easy to be acquired, as it is estimable and important. This view of the subject furnishes an answer to an objection which has been deduced from the circumstance here taken notice of; namely, the income resulting to foreigners from the part of the stock owned by them, which has been represented as tending to drain the country of its specie. In this objection, the original investment of the capital, and the constant use of it afterwards, seem both to have been overlooked.

That banks furnish temptations to over-trading, is the third of the enumerated objections. This must mean, that by affording additional aid to mercantile enterprise, they induce the merchant sometimes to adventure beyond the prudent or salutary point. But the very statement of the thing shows, that the subject of the charge is an occasional ill, incident to a general good. Credit of every kind, (as a species of which only can bank lending have the effect supposed,) must be, in different degrees, chargeable with the same inconvenience. It is even applicable to gold and silver, when they abound in circulation. But would it be wise on this account to decry the precious metals, to root out credit; or to prescribe the means of that enterprise, which is the main spring of trade, and a principal source of national wealth, because it now and then runs into excesses, of which over-trading is one?

If the abuses of a beneficial thing are to determine its condemnation, there is scarcely a source of public prosperity which will not

speedily be closed. In every case, the evil is to be compared with the good; and in the present case, such a comparison will issue in this, that the new and increased energies derived to commercial enterprise, from the aid of banks, are a source of general profit and advantage; which greatly outweigh the partial ills of the over-trading of a few individuals, at particular times, or of numbers in particular conjunctures.

The fourth and fifth charges may be considered together. These relate to the aid which is sometimes afforded by banks to unskilful adventurers and fraudulent traders. These charges also have some degree of foundation; though far less than has been pretended, and they add to the instances of partial ills, connected with more extensive and overbalancing benefits.

The practice of giving fictitious credit to improper persons, is one of those evils which experience, guided by interest, speedily corrects. The bank itself is in so much jeopardy of being a sufferer by it, that it has the strongest of all inducements to be on its guard. It may not only be injured immediately by the delinquencies of the persons, to whom such credit is given; but eventually, by the incapacities of others, whom their impositions or failures may have ruined.

Nor is there much danger of a bank's being betrayed into this error from want of information: The directors themselves being for the most part selected from the class of traders, are to be expected to possess individually, an accurate knowledge of the characters and situations of those who come within that description. And they have, in addition to this, the course of dealing of the persons themselves with the bank, to assist their judgment, which is in most cases a good index of the state in which those persons are. The artifices and shifts, which those in desperate or declining circumstances, are obliged to employ to keep up the countenance which the rules of the bank require, and the train of their connexions, are so many prognostics, not difficult to be interpreted, of the fate which awaits them. Hence it not unfrequently happens, that banks are the first to discover the unsoundness of such characters, and by withholding credit, to announce to the public that they are not entitled to it.

If banks, in spite of every precaution, are sometimes betrayed into giving a false credit to the persons described; they more frequently enable honest and industrious men, of small, or perhaps of no capital, to undertake and prosecute business, with advantage to themselves and to the community: and assist merchants of both capital and credit, who meet with fortuitous and unforeseen shocks, which might, without such helps, prove fatal to them and to others, to make head against their misfortunes, and finally to retrieve their affairs; circumstances which form no inconsiderable encomium on the utility of banks.

But the last, and heaviest charge, is still to be examined: This is, that banks tend to banish the gold and silver out of the country.

The force of this objection rests upon their being an engine of paper credit, which by furnishing a substitute for the metals, is supposed to promote their exportation. It is an objection, which, if it has any foundation, lies not against banks peculiarly, but against every species of paper credit.

The most common answer given to it is, that the thing supposed is of little or no consequence; that it is immaterial what serves the

purpose of money; whether paper, or gold and silver; that the effect of both upon industry is the same; and that the intrinsic wealth of a nation is to be measured, not by the abundance of the precious metals contained in it, but by the quantity of the productions of its labour and industry.

This answer is not destitute of solidity, though not entirely satisfactory. It is certain, that the vivification of industry, by a full circulation, with the aid of a proper and well regulated paper credit, may more than compensate for the loss of a part of the gold and silver of a nation; if the consequence of avoiding that loss, should be a scanty or defective circulation.

But the positive and permanent increase or decrease of the precious metals in a country, can hardly ever be a matter of indifference. As the commodity taken in lieu of every other, it is a species of the most effective wealth, and as the money of the world, it is of great concern to the state, that it possess a sufficiency of it to face any demands which the protection of its external interests may create.

The objection seems to admit of another and a more conclusive answer, which controverts the fact itself. A nation, that has no mines of its own, must derive the precious metals from others; generally speaking, in exchange for the products of its labour and industry. The quantity it will possess, will therefore, in the ordinary course of things, be regulated by the favourable or unfavourable balance of its trade; that is, by the proportion between its abilities to supply foreigners, and its wants of them; between the amount of its exportations and that of its importations. Hence the state of its agriculture and manufactures, the quantity and quality of its labour and industry, must, in the main, influence and determine the increase or decrease of its gold and silver.

If this be true, the inference seems to be, that well constituted banks favour the increase of the precious metals. It has been shown, that they augment in different ways, the active capital of a country. This it is which generates employment; which animates and expands labour and industry. Every addition which is made to it, by contributing to put in motion a greater quantity of both, tends to create a greater quantity of the products of both. And by furnishing more materials for exportation, conduces to a favourable balance of trade, and consequently to the introduction and increase of gold and silver.

This conclusion appears to be drawn from solid premises. There are, however, objections to be made to it.

It may be said, that as bank paper affords a substitute for specie, it serves to counteract that rigorous necessity for the metals as a medium of circulation, which, in the case of a wrong balance, might restrain, in some degree, their exportation; and it may be added, that from the same cause, in the same case, it would retard those economical and parsimonious reforms in the manner of living, which the scarcity of money is calculated to produce, and which might be necessary to rectify such wrong balance.

There is, perhaps, some truth in both these observations; but they appear to be of a nature rather to form exceptions to the generality of the conclusion, than to overthrow it. The state of things, in which the *absolute exigencies* of circulation can be supposed to resist with any effect the urgent demands for specie which a wrong balance of trade may occasion, presents an *extreme case*. And a situation in

which a too expensive manner of living of a community, compared with its means, can stand in need of a corrective, from distress or necessity, is one which perhaps rarely results, but from extraordinary and adventitious causes: such, for example, as a national revolution, which unsettles all the established habits of a people, and inflames the appetite for extravagance, by the illusions of an ideal wealth, engendered by the continual multiplication of a depreciating currency, or some similar cause. There is good reason to believe, that where the laws are wise and well executed, and the inviolability of property and contracts maintained, the economy of a people will, in the general course of things, correspond with its means.

The support of industry, is probably in every case, of more consequence towards correcting a wrong balance of trade, than any practicable retrenchments in the expenses of families or individuals; and the stagnation of it, would be likely to have more effect in prolonging, than any such savings in shortening its continuance. That stagnation, is a natural consequence of an inadequate medium, which, without the aid of bank circulation, would, in the cases supposed, be severely felt.

It also deserves notice, that as the circulation of a bank is always in a compound ratio to the fund upon which it depends, and to the demand for it; and as that fund is itself affected by the exportation of the metals, there is no danger of its being overstocked, as in the case of paper issued at the pleasure of the government; or of its preventing the consequences of any unfavorable balance from being sufficiently felt to produce the reforms alluded to, as far as circumstances may require and admit.

Nothing can be more fallible than the comparisons which have been made between different countries, to illustrate the truth of the position under consideration. The comparative quantity of gold and silver, in different countries, depends upon an infinite variety of facts and combinations, all of which ought to be known, in order to judge whether the existence or non-existence of paper currencies has any share in the relative proportions they contain. The *mass* and *value* of the productions of the labour and industry of each, compared with its wants; the nature of its establishments abroad; the kind of wars in which it is usually engaged; the relations it bears to the countries which are the original possessors of those metals; the privileges it enjoys in their trade; these, and a number of other circumstances, are all to be taken into the account, and render the investigation too complex to justify any reliance on the vague and general surmises which have been hitherto hazarded on the point.

In the foregoing discussion, the objection has been considered as applying to the permanent expulsion and diminution of the metals. Their temporary exportation, for particular purposes, has not been contemplated. This, it must be confessed, is facilitated by banks, from the faculty banks possess of supplying their place. But their utility is in nothing more conspicuous, than in these very cases. They enable the government to pay its foreign debts, and to answer any exigencies which the external concerns of the community may have produced. They enable the merchant to support his credit, (on which the prosperity of trade depends,) when special circumstances prevent remittances in other modes. They enable him also to prosecute enterprises, which ultimately tend to an augmentation of the

species of wealth in question. It is evident, that gold and silver may often be employed in procuring commodities abroad; which, in a circuitous commerce, replace the original fund, with considerable addition. But it is not to be inferred from this facility given to temporary exportation, that banks, which are so friendly to trade and industry, are in their general tendency inimical to the increase of the precious metals.

These several views of the subject appear sufficient to impress a full conviction of the utility of banks, and to demonstrate that they are of great importance, not only in relation to the administration of the finances, but in the general system of the political economy.

The judgment of many concerning them has, no doubt, been perplexed by the misinterpretation of appearances, which were to be ascribed to other causes. The general devastation of personal property, occasioned by the late war, naturally produced on the one hand, a great demand for money; and on the other, a great deficiency of it to answer the demand. Some injudicious laws, which grew out of the public distresses, by impairing confidence and causing a part of the inadequate sum in the country to be locked up, aggravated the evil: The dissipated habits, contracted by many individuals during the war, which after the peace plunged them into expences beyond their incomes; the number of adventurers without capital, and in many instances without information, who at that epoch rushed into trade, and were obliged to make any sacrifices to support a transient credit; the employment of considerable sums in speculations upon the public debt, which from its unsettled state was incapable of becoming itself a substitute: all these circumstances concurring, necessarily led to usurious borrowing, produced most of the inconveniences, and were the true cause of most of the appearances, which, where banks were established, have been by some erroneously placed to their account: a mistake which they might easily have avoided, by turning their eyes towards places where there were none, and where, nevertheless, the same evils would have been perceived to exist, even in a greater degree than where those institutions had obtained.

These evils have either ceased, or been greatly mitigated. Their more complete extinction may be looked for from that additional security to property, which the Constitution of the United States happily gives, (a circumstance of prodigious moment in the scale both of public and private prosperity,) from the attraction of foreign capital, under the auspices of that security, to be employed upon objects, and in enterprises, for which the state of this country opens a wide and inviting field, from the consistency and stability which the public debt is fast acquiring, as well in the public opinion at home and abroad, as in fact; from the augmentation of capital, which that circumstance and the quarter yearly payment of interest will afford; and from the more copious circulation, which will be likely to be created by a well-constituted national bank.

The establishment of banks in this country seems to be recommended by reasons of a peculiar nature. Previously to the revolution, circulation was in a great measure carried on by paper emitted by the several local governments. In Pennsylvania alone, the quantity of it was near a million and a half of dollars. This auxiliary may be said to be now at an end. And it is generally supposed, that

there has been for some time past, a deficiency of circulating medium. How far that deficiency is to be considered as real or imaginary, is not susceptible of demonstration; but there are circumstances and appearances, which, in relation to the country at large, countenance the supposition of its reality.

The circumstances are, besides the fact just mentioned respecting paper emissions, the vast tracts of waste land, and the little advanced state of manufactures. The progressive settlement of the former, while it promises ample retribution, in the generation of future resources, diminishes or obstructs, in the mean time, the *active* wealth of the country. It not only draws off a part of the circulating money, and places it in a more passive state, but it diverts into its own channels a portion of that species of labour and industry, which would otherwise be employed in furnishing materials for foreign trade, and which, by contributing to a favourable balance, would assist the introduction of specie. In the early periods of new settlements, the settlers not only furnish no surplus for exportation, but they consume a part of that which is produced by the labour of others. The same thing is a cause, that manufactures do not advance, or advance slowly. And notwithstanding some hypotheses to the contrary, there are many things to induce a suspicion, that the precious metals will not abound in any country which has not mines, or variety of manufactures. They have been sometimes acquired by the sword; but the modern system of war has expelled this resource; and it is one upon which it is to be hoped the United States will never be inclined to rely.

The appearances alluded to, are, greater prevalency of direct barter, in the more interior districts of the country, which, however, has been for some time past gradually lessening; and greater difficulty generally in the advantageous alienation of improved real estate, which also has of late diminished, but is still seriously felt in different parts of the Union. The difficulty of getting money, which has been a general complaint, is not added to the number; because it is the complaint of all times, and one in which imagination must ever have too great scope to permit an appeal to it.

If the supposition of such a deficiency be in any degree founded, and some aid to circulation be desirable, it remains to inquire what ought to be the nature of that aid.

The emitting of paper money by the authority of government, is wisely prohibited to the individual states, by the national constitution; and the spirit of that prohibition ought not be disregarded by the government of the United States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from some disadvantages which are applicable, to the like emissions by the states separately; yet they are of a nature so liable to abuse, and it may even be affirmed, so certain of being abused, that the wisdom of the government will be shown in never trusting itself with the use of so seducing and dangerous an expedient. In times of tranquillity, it might have no ill consequence, it might even perhaps be managed in a way to be productive of good; but in great and trying emergencies, there is almost a moral certainty of its becoming mischievous. The stamping of paper is an operation so much easier than the laying of taxes, that a government, in the practice of

paper emissions, would rarely fail in any such emergency, to indulge itself too far in the employment of that resource, to avoid, as much as possible, one less auspicious to present popularity. If it should not even be carried so far as to be rendered an absolute bubble, it would at least be likely to be extended to a degree which would occasion an inflated and artificial state of things, incompatible with the regular and prosperous course of the political economy.

Among other material differences between a paper currency, issued by the mere authority of government, and one issued by a bank, payable in coin, is this: that in the first case, there is no standard to which an appeal can be made, as to the quantity which will only satisfy, or which will surcharge the circulation; in the last, that standard results from the demand. If more should be issued than is necessary, it will return upon the bank. Its emissions, as elsewhere intimated, must always be in a compound ratio to the fund and the demand:—Whence it is evident, that there is a limitation in the nature of the thing; while the discretion of the government is the only measure of the extent of the emissions, by its own authority.

This consideration further illustrates the danger of emissions of that sort, and the preference which is due to bank paper.

The payment of the interest of the public debt, at thirteen different places, is a weighty reason, peculiar to our immediate situation, for desiring a bank circulation. Without a paper, in general currency, equivalent to gold and silver, a considerable proportion of the specie of the country must always be suspended from circulation, and left to accumulate, preparatorily to each day of payment; and as often as one approaches, there must in several cases be an actual transportation of the metals at both expense and risk, from their natural and proper reservoirs, to distant places. This necessity will be felt very injuriously to the trade of some of the states; and will embarrass not a little the operations of the treasury in those states. It will also obstruct those negociations, between different parts of the Union, by the instrumentality of treasury bills, which have already afforded valuable accommodations to trade in general.

Assuming it then as a consequence, from what has been said, that a national bank is a desirable institution, two inquiries emerge—Is there no such institution, already in being, which has a claim to that character, and which supersedes the propriety or necessity of another? If there be none, what are the principles upon which one ought to be established?

There are at present three banks in the United States: that of North-America, established in the city of Philadelphia; that of New-York, established in the city of New-York; that of Massachusetts, established in the town of Boston. Of these three, the first is the only one which has at any time had a direct relation to the government of the United States.

The bank of North-America originated in a resolution of Congress of the 26th of May, 1781, founded upon a proposition of the superintendant of finance, which was afterwards carried into execution by an ordinance of the 31st of December following, entitled, "An ordinance to incorporate the Subscribers to the Bank of North-America."

The aid afforded to the United States by this institution, during the remaining period of the war, was of essential consequence; and its

conduct towards them since the peace, has not weakened its title to their patronage and favour. So far its pretensions to the character in question are respectable; but there are circumstances which militate against them; and cosiderations which indicate the propriety of an establishment on different principles.

The directors of this bank, on behalf of their constituents, have since *accepted* and *acted* under a new charter from the state of Pennsylvania, materially variant from their original one; and which so narrows the foundation of the institution, as to render it an incompetent basis for the extensive purposes of a national bank.

The limit assigned by the ordinance of Congress to the stock of the bank, is ten millions of dollars. The last charter of Pennsylvania confines it to two millions. Questions naturally arise, whether there be not a direct repugnancy between two charters so differently circumstanced; and whether the acceptance of the one, is not to be deemed a virtual surrender of the other. But perhaps it is neither adviseable nor necessary to attempt a solution of them.

There is nothing in the acts of Congress, which imply an exclusive right in the institution to which they relate, except during the term of the war. There is therefore nothing, if the public good require it, which prevents the establishment of another. It may however be incidentally remarked, that in the general opinion of the citizens of the United States, the bank of North-America has taken the station of a bank of Pennsylvania only. This is a strong argument for a new institution, or for a renovation of the old, to restore it to the situation in which it originally stood, in the view of the United States.

But though the ordinance of Congress contains no grant of exclusive privileges, there may be room to allege, that the government of the United States ought not, in point of candour and equity, to establish any rival or interfering institution, in prejudice of the one already established; especially as this has, from services rendered, well-founded claims to protection and regard.

The justice of such an observation ought, within proper bounds, to be admitted. A new establishment of the sort ought not to be made, without cogent and sincere reasons of public good. And in the manner of doing it, every facility should be given to a consolidation of the old with the new, upon terms not injurious to the parties concerned. But there is no ground to maintain, that in a case in which the government has made no condition restricting its authority, it ought voluntarily to restrict it, through regard to the interests of a particular institution, when those of the state dictate a different course; especially too after such circumstances have intervened, as characterize the actual situation of the bank of North-America.

The inducements to a new disposition of the thing are now to be considered. The first of them which occurs is, the at least ambiguous situation in which the bank of North-America has placed itself, by the acceptance of its last charter. If this has rendered it the mere bank of a particular state, liable to dissolution at the expiration of fourteen years, to which term the act of that state has restricted its duration, it would be neither fit, nor expedient, to accept it as an equivalent for a bank of the United States.

The restriction of its capital, also, which, according to the same supposition, cannot be extended beyond two millions of dollars, is a

conclusive reason for a different establishment. So small a capital promises neither the requisite aid to government, nor the requisite security to the community. It may answer very well the purposes of local accommodation, but is an inadequate foundation for a circulation co-extensive with the United States; embracing the whole of their revenues, and affecting every individual into whose hands the paper may come.

And inadequate as such a capital would be to the essential ends of a national bank, it is liable to be rendered still more so, by that principle of the constitution of the bank of North-America, contained equally in its old and in its new charter, which leaves the increase of the *actual* capital at any time, (now far short of the allowed extent,) to the discretion of the directors or stockholders. It is naturally to be expected, that the allurements of an advanced price of stock, and of large dividends, may disincline those who are interested, to an extension of capital; from which they will be apt to fear a diminution of profits. And from this circumstance, the interest and accommodation of the public, (as well individually as collectively,) are made more subordinate to the interest, real or imagined, of the stockholders, than they ought to be. It is true, that unless the latter be consulted, there can be no bank, (in the sense at least in which institutions of this kind, worthy of confidence, can be established in this country.) But it does not follow, that this is alone to be consulted, or that it even ought to be paramount. Public utility is more truly the object of public banks, than private profit. And it is the business of government, to constitute them on such principles, that while the latter will result, in a sufficient degree, to afford competent motives to engage in them, the former be not made subservient to it. To effect this, a principal object of attention ought to be to give free scope to the creation of an ample capital; and with this view, fixing the bounds, which are deemed safe and convenient, to leave no discretion either to stop short of them or to overpass them. The want of this precaution, in the establishment of the bank of North-America, is a further and an important reason, for desiring one differently constituted.

There may be room at first sight, for a supposition that as the profits of a bank will bear a proportion to the extent of its operations; and as, for this reason, the interest of the stockholders will not be disadvantageously affected by any necessary augmentations of capital; there is no cause to apprehend that they will be indisposed to such augmentations. But most men in matters of this nature, prefer the certainties they enjoy, to probabilities depending on untried experiments; especially when these promise rather, that they will not be injured, than that they will be benefitted.

From the influence of this principle, and a desire of enhancing its profits, the directors of a bank will be more apt to overstrain its faculties, in an attempt to face the additional demands which the course of business may create, than to set on foot new subscriptions, which may hazard a diminution of the profits, and even a temporary reduction of the price of stock.

Banks are among the best expedients for lowering the rate of interest in a country; but to have this effect, their capitals must be completely equal to all the demands of business, and such as will

tend to remove the idea, that the accommodations they afford, are in any degree favours; an idea very apt to accompany the parsimonious dispensation of contracted funds. In this, as in every other case, the plenty of the commodity ought to beget a moderation of the price.

The want of a principle of rotation, in the constitution of the bank of North-America, is another argument for a variation of the establishment. Scarcely one of the reasons which militate against this principle in the constitution of a country is applicable to that of a bank; while there are strong reasons in favour of it, in relation to the one, which do not apply to the other. The knowledge to be derived from experience, is the only circumstance common to both, which pleads against rotation in the directing officers of a bank.

But the objects of the government of a nation, and those of the government of a bank, are so widely different, as greatly to weaken the force of that consideration, in reference to the latter. Almost every important case of legislation requires, towards a right decision, a general and accurate acquaintance with the affairs of the state; and habits of thinking seldom acquired but from a familiarity with public concerns. The administration of a bank, on the contrary, is regulated by a few simple fixed maxims, the application of which is not difficult to any man of judgment, especially if instructed in the principles of trade. It is in general a constant succession of the same details.

But though this be the case, the idea of the advantages of experience is not to be slighted. Room ought to be left for the regular transmission of official information; and for this purpose, the head of the direction ought to be excepted from the principle of rotation. With this exception, and with the aid of the information of the subordinate officers, there can be no danger of any ill effects from want of experience, or knowledge; especially as the periodical exclusion ought not to reach the whole of the directors at one time.

The argument in favour of the principle of rotation is this, that by lessening the danger of combinations among the directors, to make the institution subservient to party views, or to the accommodation, preferably, of any particular set of men, it will render the public confidence more firm, stable, and unqualified.

When it is considered, that the directors of a bank are not elected by the great body of the community, in which a diversity of views will naturally prevail, at different conjunctures, but by a small and select class of men, among whom it is far more easy to cultivate a steady adherence to the same persons and objects; and that those directors have it in their power so immediately to conciliate, by obliging the most influential of this class, it is easy to perceive, that without the principle of rotation, changes in that body can rarely happen, but as a concession which they may themselves think it expedient to make to public opinion.

The continual administration of an institution of this kind, by the same persons, will never fail, with or without cause, from their conduct, to excite distrust and discontent. The necessary secrecy of their transactions, gives unlimited scope to imagination to infer that something is, or may be, wrong. And this *inevitable* mystery is a solid reason for inserting in the constitution of a bank the necessity

of a change of men. As neither the mass of the parties interested, nor the public in general, can be permitted to be witnesses of the interior management of the directors, it is reasonable that both should have that check upon their conduct, and that security against the prevalency of a partial or pernicious system, which will be produced by the certainty of periodical changes. Such too is the delicacy of the credit of a bank, that every thing which can fortify confidence and repel suspicion, without injuring its operations, ought carefully to be sought after in its formation.

A further consideration in favour of a change, is the improper rule, by which the right of voting for directors is regulated in the plan upon which the bank of North-America was originally constituted; namely, a vote for each share, and the want of a rule in the last charter; unless the silence of it on that point, may signify that every stockholder is to have an equal and a single vote, which would be a rule in a different extreme, not less erroneous. It is of importance that a rule should be established on this head, as it is one of those things which ought not to be left to discretion; and it is consequently of equal importance, that the rule should be a proper one.

A vote for each share, renders a combination between a few principal stockholders, to monopolize the power and benefits of the bank, too easy. An equal vote to each stockholder, however great or small his interest in the institution, allows not that degree of weight to large stockholders, which it is reasonable they should have, and which perhaps their security, and that of the bank, require. A prudent mean is to be preferred. A conviction of this, has produced a by-law of the corporation of the bank of North-America, which evidently aims at such a mean. But a reflection arises here, that a like majority with that which enacted this law, may at any moment repeal it.

The last inducement which shall be mentioned, is the want of precautions to guard against a foreign influence insinuating itself into the direction of the bank. It seems scarcely reconcileable with a due caution, to permit, that any but citizens should be eligible, as directors of a national bank, or that non-resident foreigners should be able to influence the appointment of directors, by the votes of their proxies. In the event, however, of an incorporation of the bank of North-America, in the plan, it may be necessary to qualify this principle, so as to leave the right of foreigners, who now hold shares of its stock, unimpaired, but without the power of transmitting the privilege in question, to foreign alienees.

It is to be considered, that such a bank is not a mere matter of private property, but a political machine of the greatest importance to the state.

There are other variations from the constitution of the bank of North America, not of inconsiderable moment, which appear desirable, but which are not of magnitude enough to claim a preliminary discussion. These will be seen in the plan which will be submitted in the sequel.

If the objections which have been stated, to the constitution of the bank of North-America, are admitted to be well founded, they will nevertheless not derogate from the merit of the main design, or of the

services which that bank has rendered, or of the benefits which it has produced. The creation of such an institution, at the time it took place, was a measure dictated by wisdom. Its utility has been amply evinced by its fruits—American independence owes much to it.—And it is very conceivable, that reasons of the moment, may have rendered those features in it inexpedient, which a revision with a permanent view, suggests as desirable.

The order of the subject, leads next to an inquiry into the principles upon which a national bank ought to be organized.

The situation of the United States naturally inspires a wish, that the form of the institution could admit of a plurality of branches. But various considerations discourage from pursuing this idea. The complexity of such a plan would be apt to inspire doubts, which might deter from adventuring in it. And the practicability of a safe and orderly administration, though not to be abandoned as desperate, cannot be made so manifest in perspective, as to promise the removal of those doubts, or to justify the government in adopting the idea as an original experiment. The most that would seem adviseable, on this point, is to insert a provision, which may lead to it hereafter; if experience shall more clearly demonstrate its utility, and satisfy those who may have the direction, that it may be adopted with safety. It is certain, that it would have some advantages, both peculiar and important. Besides more general accommodation, it would lessen the danger of a run upon the bank.

The argument against it is, that each branch must be under a distinct, though subordinate direction, to which a considerable latitude of discretion must of necessity be intrusted. And as the property of the whole institution would be liable for the engagements of each part; that, and its credit, would be at stake upon the prudence of the directors of every part. The mismanagement of either branch might hazard serious disorder in the whole.

Another wish, dictated by the particular situation of the country, is, that the bank could be so constituted as to be made an immediate instrument of loans to the proprietors of land; but this wish also yields to the difficulty of accomplishing it. Land is alone an unfit fund for a bank circulation. If the notes issued upon it were not to be payable in coin, on demand, or at a short date, this would amount to nothing more than a repetition of the paper emissions, which are now exploded by the general voice. If the notes are to be payable in coin, the land must first be converted into it, by sale or mortgage. The difficulty of effecting the latter, is the very thing which begets the desire of finding another resource; and the former would not be practicable on a sudden emergency, but with sacrifices which would make the cure worse than the disease. Neither is the idea of constituting the fund partly of coin and partly of land, free from impediments. These two species of property do not, for the most part, unite in the same hands. Will the monied man consent to enter into a partnership with the landholder, by which *the latter* will share in the profits *which will be* made *by the money of the former?* The money, it is evident, will be the agent or efficient cause of the profits—the land can only be regarded as an additional security. It is not difficult to foresee, that an union, on such terms, will not readily be formed. If the landholders are to procure the money by sale or

mortgage of a part of their lands, this they can as well do, when the stock consists wholly of money, as if it were to be compounded of money and land.

To procure for the landholders the assistance of loans, is the great desideratum. Supposing other difficulties surmounted, and a fund created, composed partly of coin and partly of land, yet the benefit contemplated could only then be obtained, by the bank's advancing them its notes for the whole, or part of the value of the lands they had subscribed to the stock. If this advance was small, the relief aimed at would not be given; if it was large, the quantity of notes issued would be a cause of *distrust*, and, if received at all, they would be likely to return speedily upon the bank for payment; which, after exhausting its coin, might be under the necessity of turning its lands into money, at any price that could be obtained for them, to the irreparable prejudice of the proprietors.

Considerations of public advantage suggest a further wish, which is, that the bank could be established upon principles that would cause the profits of it to redound to the immediate benefit of the state. This is contemplated by many who speak of a national bank, but the idea seems liable to insuperable objections. To attach full confidence to an institution of this nature, it appears to be an essential ingredient in its structure, that it shall be under a *private*, not a *public* direction, under the guidance of *individual interest*, not of *public policy;* which would be supposed to be, and in certain emergencies, under a feeble or too sanguine administration, would really be, liable to being too much influenced by *public necessity*. The suspicion of this would most probably be a canker that would continually corrode the vitals of the credit of the bank, and would be most likely to prove fatal in those situations in which the public good would require that they should be most sound and vigorous. It would, indeed, be little less than a miracle, should the credit of the bank be at the disposal of the government, if in a long series of time, there was not experienced a calamitous abuse of it. It is true, that it would be the real interest of the government not to abuse it; its genuine policy to husband and cherish it with the most guarded circumspection, as an inestimable treasure. But what government ever uniformly consulted its true interests, in opposition to the temptations of momentary exigencies? What nation was ever blessed with a constant succession of upright and wise administrators?

The keen, steady, and, as it were, magnetic sense of their own interest as proprietors, in the directors of a bank, pointing invariable to its true pole, the prosperity of the institution, is the only security that can always be relied upon for a careful and prudent administration. It is, therefore, the only basis on which an enlightened, unqualified, and permanent confidence can be expected to be erected and maintained.

The precedents of the banks established in several cities of Europe; Amsterdam, Hamburgh, and others; may seem to militate against this position. Without a precise knowledge of all the peculiarities of their respective constitutions, it is difficult to pronounce how far this may be the case. That of Amsterdam, however, which we best know, is rather under a municipal than a governmental direction. Particular magistrates of the city, not officers of the republic, have

the management of it. It is also a bank of deposit, not of loan, or circulation; consequently, less liable to abuse, as well as less useful. Its general business consists in receiving money for safe keeping, which, if not called for within a certain time, becomes a part of its stock, and irreclaimable: But a credit is given for it on the books of the bank, which being transferable, answers all the purposes of money.

The directors being magistrates of the city, and the stockholders, in general, its most influential citizens, it is evident, that the principle of private interest must be prevalent in the management of the bank. And it is equally evident, that from the nature of its operations, that principle is less essential to it, than to an institution constituted with a view to the accommodation of the public and individuals, by direct loans and a paper circulation.

As far as may concern the aid of the bank, within the proper limits, a good government has nothing more to wish for, than it will always possess; though the management be in the hands of private individuals. As the institution, if rightly constituted, must depend for its renovation from time to time on the pleasure of the government, it will not be likely to feel a disposition to render itself by its conduct unworthy of public patronage. The government, too, in the administration of its finances, has it in its power to reciprocate benefits to the bank, of not less importance than those which the bank affords to the government, and which, besides, are never unattended with an immediate and adequate compensation. Independent of these more particular considerations, the natural weight and influence of a good government will always go far towards procuring a compliance with its desires; and as the directors will usually be composed of some of the most discreet, respectable, and well-informed citizens, it can hardly ever be difficult to make them sensible of the force of the inducements which ought to stimulate their exertions.

It will not follow, from what has been said, that the state may not be the holder of a part of the stock of a bank, and consequently a sharer in the profits of it. It will only follow, that it ought not to desire any participation in the direction of it, and therefore, ought not to own the whole or a principal part of the stock; for if the mass of the property should belong to the public, and if the direction of it should be in private hands, this would be to commit the interests of the state to persons not interested, or not enough interested, in their proper management.

There is one thing, however, which the government owes to itself and to the community; at least to all that part of it, who are not stockholders; which is to reserve to itself a right of ascertaining, as often as may be necessary, the state of the bank, excluding, however, all pretension to control. This right forms an article in the primitive constitution of the bank of North-America; and its propriety stands upon the clearest reasons. If the paper of a bank is to be permitted to insinuate itself into all the revenues and receipts of a country; if it is even to be tolerated as the substitute for gold and silver in all the transactions of business, it becomes, in either view, a national concern of the first magnitude. As such, the ordinary rules of prudence require, that the government should possess the means of ascertaining, whenever it thinks fit, that so

delicate a trust is executed with fidelity and care. A right of this nature is not only desirable as it respects the government; but it ought to be equally so to all those concerned in the institution; as an additional title to public and private confidence; and as a thing which can only be formidable to practices that imply mismanagement. The presumption must always be, that the characters who would be intrusted with the exercise of this right on behalf of the government, will not be deficient in the discretion which it may require; at least the admitting of this presumption, cannot be deemed too great a return of confidence, for that very large portion of it which the government is required to place in the bank.

Abandoning, therefore, ideas which, however agreeable or desirable, are neither practicable nor safe; the following plan for the constitution of a National Bank, is respectfully submitted to the consideration of the house.

I. The capital stock of the bank shall not exceed ten millions of dollars, divided into twenty-five thousand shares, each share being four hundred dollars; to raise which sum, subscriptions shall be opened on the first Monday of April next, and shall continue open until the whole shall be subscribed. Bodies politic, as well as individuals, may subscribe.

II. The amount of each share shall be payable, one fourth in gold and silver coin, and three fourths in that part of the public debt, which, according to the loan proposed by the act making provision for the debt of the United States, shall bear an accruing interest at the time of payment of six per centum per annum.

III. The respective sums subscribed shall be payable in four equal parts, as well specie as debt, in succession, and at the distance of six calendar months from each other; the first payment to be made at the time of subscription. If there shall be a failure in any subsequent payment, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

IV. The subscribers to the bank and their successors shall be incorporated, and shall so continue, until the final redemption of that part of its stock which shall consist of the public debt.

V. The capacity of the corporation to hold real and personal estate, shall be limited to fifteen millions of dollars, including the amount of its capital or original stock. The lands and tenements which it shall be permitted to hold, shall be only such as shall be requisite for the immediate accommodation of the institution; and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted, in the usual course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

VI. The totality of the debts of the company, whether by bond, bill, note, or other contract, (credits for deposits excepted,) shall never exceed the amount of its capital stock. In case of excess, the directors, under whose administration it shall happen, shall be liable for it in their private or separate capacities. Those who may have dissented, may excuse themselves from this responsibility, by immediately giving notice of the fact and their dissent, to the President of the United States, and to the stockholders, at a general meeting to be called by the president of the bank, at their request.

VII. The company may sell or demise its lands and tenements, or may sell the whole or any part of the public debt, whereof its stock shall consist; but shall *trade* in nothing, except bills of exchange, gold and silver bullion, or in the sale of goods pledged for money lent: nor shall take more than at the rate of six per centum per annum, upon its loans or discounts.

VIII. No loans shall be made by the bank, for the use or on account of the government of the United States, or of either of them, to an amount exceeding fifty thousand dollars, or of any foreign prince or state; unless previously authorized by a law of the United States.

IX. The stock of the bank shall be transferable according to such rules as shall be instituted by the company in that behalf.

X. The affairs of the bank shall be under the management of twenty-five directors, one of whom shall be the president. And there shall be on the first Monday of January, in each year, a choice of directors, by a plurality of suffrages of the stockholders, to serve for a year. The directors, at their first meeting after each election, shall choose one of their present number as president.

XI. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the proportions following:—that is to say, For one share, and not more than two shares, one vote: For every two shares, above two, and not exceeding ten, one vote: For every four shares, above ten, and not exceeding thirty, one vote: For every six shares, above thirty, and not exceeding sixty, one vote: For every eight shares, above sixty, and not exceeding one hundred, one vote; and for every ten shares, above one hundred, one vote: But no person, co-partnership, or body politic, shall be entitled to a greater number than thirty votes. And after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. Stockholders, actually resident within the United States, and none other, may vote in elections by proxy.

XII. Not more than three fourths of the directors in office, exclusive of the president, shall be eligible for the next succeeding year. But the director who shall be president at the time of an election, may always be re-elected.

XIII. None but a stockholder, being a citizen of the United States, shall be eligible as a director.

XIV. Any number of stockholders not less than sixty, who together shall be proprietors of two hundred shares, or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution; giving at least six weeks notice in two public gazettes of the place where the bank is kept, and specifying, in such notice, the object of the meeting.

XV. In case of the death, resignation, absence from the United States, or removal of a director by the stockholders, his place may be filled by a new choice for the remainder of the year.

XVI. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The stockholders shall make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

XVII. Not less than seven directors shall constitute a board for the transaction of business.

XVIII. Every cashier, or treasurer, before he enters on the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than twenty thousand dollars, with condition for his good behaviour.

XIX. Half yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors adviseable. And once in every three years the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts, which shall have remained unpaid, after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profit, if any, after deducting losses and dividends.

XX. The bills and notes of the bank originally made payable, or which shall have become payable on demand, in gold and silver coin, shall be receivable in all payments to the United States.

XXI. The officer at the head of the treasury department of the United States, shall be furnished from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the bank, and of the debts due to the same, of the monies deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank, as shall relate to the said statements; provided that this shall not be construed to imply a right of inspecting the account of any private individual or individuals, with the bank.

XXII. No similar institution shall be established by any future act of the United States, during the continuance of the one hereby proposed to be established.

XXIII. It shall be lawful for the directors of the bank to establish offices, wheresoever they shall think fit, within the United States, for the purposes of discount and deposit only, and upon the same terms, and in the same manner, as shall be practiced at the bank, and to commit the management of the said officers, and the making of the said discounts, either to agents specially appointed by them, or to such persons as may be chosen by the stockholders residing at the place where any such office shall be, under such agreements, and subject to such regulations as they shall deem proper; not being contrary to law, or to the constitution of the bank.

XXIV. And lastly. The President of the United States shall be authorized to cause a subscription to be made to the stock of the said company, on behalf of the United States, to an amount not exceeding two millions of dollars, to be paid out of the monies which shall be borrowed by virtue of either of the acts, the one entitled, "An Act making provision for the debt of the United States," and the other entitled, "An Act making provision for the reduction of the public debt;" borrowing of the bank an equal sum, to be applied to the purposes for which the said monies shall have been procured, reimburseable in ten years by equal annual instalments; or at any time sooner, or in any greater proportions, that the government may think fit.

The reasons for the several provisions contained in the foregoing plan, have been so far anticipated, and will, for the most part, be so

readily suggested by the nature of those provisions, that any comments which need further be made, will be both few and concise.

The combination of a portion of the public debt, in the formation of the capital, is the principal thing of which an explanation is requisite. The chief object of this is, to enable the creation of a capital sufficiently large to be the basis of an extensive circulation, and an adequate security for it. As has been elsewhere remarked, the original plan of the bank of North-America, contemplated a capital of ten millions of dollars, which is certainly not too broad a foundation for the extensive operations to which a national bank is destined. But to collect such a sum in this country in gold and silver, into one depository, may, without hesitation, be pronounced impracticable. Hence the necessity of an auxiliary, which the public debt at once presents.

This part of the fund will be always ready to come in aid of the specie. It will more and more command a ready sale; and can therefore expeditiously be turned into coin if an exigency of the bank should at any time require it. This quality of prompt convertibility into coin, renders it an equivalent for that necessary agent of bank circulation; and distinguishes it from a fund in land, of which the sale would generally be far less compendious, and at great disadvantage. The quarter yearly receipts of interest will also be an actual addition to the specie fund, during the intervals between them and the half yearly dividends of profits. The objection to combining land with specie, resulting from their not being generally in possession of the same persons, does not apply to the debt, which will always be found in considerable quantity among the monied and trading people.

The debt composing part of the capital, besides its collateral effect in enabling the bank to extend its operations, and consequently to enlarge its profits, will produce a direct annual revenue of six per centum from the government, which will enter into the half yearly dividends received by the stockholders.

When the present price of the public debt is considered, and the effect which its conversion into bank stock, incorporated with a specie fund, would in all probability have to accelerate its rise to the proper point, it will easily be discovered, that the operation presents in its outset a very considerable advantage to those who may become subscribers; and from the influence which that rise would have on the general mass of the debt, a proportional benefit to all the public creditors, and in a sense which has been more than once adverted to, to the community at large.

There is an important fact, which exemplifies the fitness of the public debt, for a bank fund, and which may serve to remove doubts in some minds on this point. It is this, that the bank of England, in its first erection, rested wholly on that foundation. The subscribers to a loan to government of one million two hundred thousand pounds sterling, were incorporated as a bank; of which the debt created by the loan and the interest upon it, were the sole fund. The subsequent augmentations of its capital, which now amounts to between eleven and twelve millions of pounds sterling, have been of the same nature.

The confining of the right of the bank to contract debts to the amount of its capital, is an important precaution, which is not to be found in the constitution of the bank of North-America, and

which, while the fund consists wholly of coin, would be a restriction attended with inconveniences, but would be free from any, if the composition of it should be such as is now proposed. The restriction exists in the establishment of the bank of England, and as a source of security, is worthy of imitation. The consequence of exceeding the limit there is, that each stockholder is liable for the excess, in proportion to his interest in the bank. When it is considered, that the directors owe their appointments to the choice of the stockholders, a responsibility of this kind on the part of the latter, does not appear unreasonable. But on the other hand it may be deemed a hardship upon those who may have dissented from the choice. And there are many among us, whom it might perhaps discourage from becoming concerned in the institution. These reasons have induced the placing of the responsibility upon the directors, by whom the limit prescribed should be transgressed.

The interdiction of loans on account of the United States, or of any particular state, beyond the moderate sum specified, or of any foreign power, will serve as a barrier to executive encroachments, and to combinations inauspicious to the safety, or contrary to the policy of the Union.

The limitation of the rate of interest is dictated by the consideration, that different rates prevail in different parts of the Union; and as the operations of the bank may extend through the whole, some rule seems to be necessary. There is room for a question, whether the limitation ought not rather to be to five, than to six per cent. as proposed. It may with safety be taken for granted, that the former rate would yield an ample dividend; perhaps as much as the latter, by the extension which it would give to business. The natural effect of low interest is to increase trade and industry; because undertakings of every kind can be prosecuted with greater advantage. This is a truth generally admitted; but it is requisite to have analyzed the subject in all its relations, to be able to form a just conception of the extent of that effect. Such an analysis cannot but satisfy an intelligent mind, that the difference of one per cent. in the rate at which money may be had, is often capable of making an essential change for the better in the situation of any country or place.

Every thing, therefore, which tends to lower the rate of interest, is peculiarly worthy of the cares of legislators. And though laws, which violently sink the legal rate of interest greatly below the market level, are not to be commended, because they are not calculated to answer their aim; yet, whatever has a tendency to effect a reduction, without violence to the natural course of things, ought to be attended to and pursued. Banks are among the means most proper to accomplish this end; and the moderation of the rate at which their discounts are made, is a material ingredient towards it; with which their own interest, viewed on an enlarged and permanent scale, does not appear to clash.

But as the most obvious ideas are apt to have greater force than those which depend on complex and remote combinations, there would be danger, that the persons, whose funds must constitute the stock of the bank, would be diffident of the sufficiency of the profits to be expected, if the rate of loans and discounts were to be placed below the point to which they have been accustomed; and might, on this account, be indisposed to embarking in the plan. There is, it is true,

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one reflection, which, in regard to men actually engaged in trade, ought to be a security against this danger; it is this, That the accommodations which they might derive in the way of their business, at a low rate, would more than indemnify them for any difference in the dividend; supposing even that some diminution of it were to be the consequence. But upon the whole, the hazard of contrary reasoning among the mass of monied men, is a powerful argument against the experiment. The institutions of the kind already existing, add to the difficulty of making it. Mature reflection, and a large capital, may, of themselves, lead to the desired end.

The last thing which requires any explanatory remark, is, the authority proposed to be given to the President to subscribe to the amount of two millions of dollars, on account of the public. The main design of this is, to enlarge the specie fund of the bank, and to enable it to give a more early extension to its operations. Though it is proposed to borrow with one hand what is lent with the other; yet the disbursement of what is borrowed, will be progressive, and bank notes may be thrown into circulation, instead of the gold and silver. Besides, there is to be an annual reimbursement of a part of the sum borrowed, which will finally operate as an actual investment of so much specie. In addition to the inducements to this measure, which result from the general interest of the government to enlarge the sphere of the utility of the bank, there is this more particular consideration, to wit, that as far as the dividend on the stock shall exceed the interest paid on the loan, there is a positive profit.

The Secretary begs leave to conclude, with this general observation—That if the bank of North-America shall come forward with any propositions, which have for their object the ingrafting upon that institution, the characteristics which shall appear to the legislature necessary to the due extent and safety of a national bank, there are, in his judgment, weighty inducements to giving every reasonable facility to the measure. Not only the pretensions of that institution, from its original relation to the government of the United States, and from the services it has rendered, are such as to claim a disposition favourable to it, if those who are interested in it are willing, on their part, to place it on a footing satisfactory to the government, and equal to the purposes of a bank of the United States: but its cooperation would materially accelerate the accomplishment of the great object, and the collision, which might otherwise arise, might, in a variety of ways, prove equally disagreeable and injurious. The incorporation or union here contemplated, may be effected in different modes, under the auspices of an act of the United States, if it shall be desired by the bank of North-America, upon terms which shall appear expedient to the government.

All which is humbly submitted.

ALEXANDER HAMILTON.
Secretary of the Treasury.

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60TH CONGRESS } SENATE { DOCUMENT
1st Session } { No. 390

HEARINGS ON THE RELIEF OF TOBACCO GROWERS

BEFORE A SUBCOMMITTEE ON INTERNAL REVENUE OF THE COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, 58TH CONGRESS, 2D SESSION, FEBRUARY 4 AND 25, 1904

MARCH 16, 1908.—Presented by Mr. PAYNTER and ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

RELIEF OF TOBACCO GROWERS.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Thursday, February 4, 1904.

The Subcommittee on Internal Revenue (No. 3) this day met at 10.30 o'clock a. m., Hon. John Dalzell in the chair.

Members present: The chairman, Messrs. Tawney, Metcalf, and Hill.

The CHAIRMAN. The committee will be in order.

The purpose of the committee meeting this morning is to consider a bill (H. R. 4482) introduced by Mr. Gaines, entitled "A bill for the relief of tobacco growers." (See p. 65.)

We are ready to hear any gentlemen who are prepared to address the committee.

Mr. D. H. SMITH. Mr. Gaines will be here in a few moments, and as he is the author of the bill we would prefer that he should open the statements.

The CHAIRMAN. Very well. We will wait a few minutes for him.

Mr. D. H. SMITH. He does not seem to be around here just at present.

The CHAIRMAN. (After an interval of a few minutes.) Mr. Smith, I think we shall have to insist on proceeding with the hearing. I suppose Mr. Gaines will be here a little later.

Mr. D. H. SMITH. Well, sir, of course this is a bill introduced by Mr. Gaines, of Tennessee, but it perhaps affects the people of southern Kentucky, the section from which I come, as vitally and as extensively as it does the people of any section in the Union. It is a large tobacco-growing territory, and while I do not like to appear in the rôle of leading the fighting for some other gentleman's bill, I am very warmly for this bill, and expect to do all that I can to secure its favorable report and passage.

The CHAIRMAN. Mr. Gaines will, of course, be heard.

Mr. D. H. SMITH. I understand, but I would rather that he should have been here to take charge of the management of the matter before the subcommittee. As he is not here, however, I will introduce the gentlemen who are here from Kentucky to be heard on the measure.

As I understand the proposition, it is simply to permit any person to deal in leaf tobacco free of any tax or license and allow tobacco growers to hand stem or hand twist their own growth free of any tax or license, so that it is not adulterated, and to put it up in hand twist—the gentlemen of the committee have some samples of it here in that form—to strip it, to twist it, as long as it is not adulterated; in other words, to have the privilege and the authority to thus handle it without paying a tax upon it.

Mr. TAWNEY. I am informed that Mr. Gaines was very ill last night. Probably that is the reason that he is not here.

Mr. D. H. SMITH. He was here a few moments ago, but he has stepped out.

Mr. HILL. He was in the committee room just a few moments ago.

Mr. TAWNEY. Oh, I did not know that he had been here.

Mr. D. H. SMITH. Yes; he was here a short time ago.

I will not undertake to be heard by the committee this morning myself, but probably I shall ask to be heard before we finish with the subject. There are some gentlemen here from Kentucky who desire to be heard in regard to the matter. Gentlemen, have you arranged among yourselves as to the order in which you shall talk to the committee?

Mr. BARKER. There has been no order agreed upon that I know of. We came expecting Mr. Gaines to conduct the hearing.

Mr. D. H. SMITH. Suppose you present your views now to the committee, Mr. Barker, and tell them what you want.

STATEMENT OF CHARLES E. BARKER, OF KENTUCKY.

Mr. BARKER. I hardly know what to say to you about this. I am a planter, president of the farmers' club at Pembroke, in what is known as the Clarksville tobacco district, and a producer of export tobaccos and tobaccos of different types.

The tobacco that we produce is a dark, rich tobacco, and a few years ago we had a good market there, a good trade, and a good deal of competition. We could put out tobacco on the open market, with an auctioneer to sell it, and we would have 15 or 20 men bidding on it. The conditions have come about now so that we have only one man to make a price on it, and he refuses to go into the market at all.

The CHAIRMAN. You say that you have only one buyer?

Mr. BARKER. Yes, sir.

The CHAIRMAN. How does that come about?

Mr. BARKER. I can not explain that to you.

Mr. JAMES. Is not that due to the fact that the trust has combined and controlled the market on tobacco, and therefore there is just one purchaser?

Mr. BARKER. Yes. The whole region has been cut up into districts like magisterial or constabulary districts, and the agents of each go around the districts and pick out just such as they want, and we have to take what they offer or leave it alone. We formerly put the tobaccos on the open market, where the auctioneer put them up for sale; but these men will not go there.

(Here Mr. Gaines entered committee room.)

Mr. METCALF. What sort of tobacco do you grow?

Mr. BARKER. We grow this dark tobacco, export tobacco I believe it is known as.

Mr. METCALF. Is it smoking or chewing tobacco?

Mr. BARKER. Well, we think down there that it is pretty good for both. [Laughter.]

Mr. GAINES. It is mostly exported, is it not?

Mr. BARKER. Yes, sir. I brought some samples which have been placed on the table before the committee. I can not tell you exactly what it is, but I can show you. [The various samples of tobacco were shown to the members of the committee.]

Mr. D. H. SMITH. That is chewing tobacco [indicating] and that is smoking tobacco [indicating].

Mr. BARKER. The chairman has in his hand now the tobacco in the *only shape* in which we now are permitted to sell it.

The CHAIRMAN. This tobacco [indicating twist] and this [indicating flat piece] are the products of this other [leaf]? [Indicating.]

Mr. BARKER. Yes, sir; that has been put in order and twisted in that form.

Mr. METCALF. This is a twist, or plug?

Mr. BARKER. Yes, sir; and that that the other gentleman has there is simply crumpled while it is dry. It is all of the same form.

The CHAIRMAN. I want to ask you, are you familiar with this bill (H. R. 4482) which has been introduced by Mr. Gaines?

Mr. BARKER. I do not know that I am, Mr. Chairman.

The CHAIRMAN. It is here, and I wish you would read it and tell me how that bill will cure the evil of which you have just been complaining, the monopoly of the market [handing the bill referred to to Mr. Barker].

Mr. D. H. SMITH. Mr. Chairman, it might be well for Mr. Gaines to explain his bill. These gentlemen are farming people, and practical men—Mr. Barker is a practical tobacco grower, and I suppose, perhaps, he has not seen Mr. Gaines's bill before. Therefore it might be better to have Mr. Ganies explain his bill.

The CHAIRMAN. What the committee wants to get is information. It does not make any difference where it comes from.

Mr. GAINES. There are five bills which have been introduced. (See p. 65.) Is he familiar with any of the other bills?

The CHAIRMAN. They are all there together.

Mr. GAINES. Which one are you familiar with?

Mr. BARKER. I believe I am familiar with the bill that Mr. Stanley introduced.

Mr. GAINES. Then take Mr. Stanley's bill and explain that.

Mr. STANLEY. I would suggest to Mr. Barker that the provisions of this bill of mine simply provide—the rest being merely for trimming purposes—that he shall have the right to sell tobacco in the natural leaf and in the twist, and that subsequent purchasers shall have the right to handle it. That is what you want, I understand.

Mr. BARKER. Yes.

Mr. HILL. That is the twist there [indicating one of the samples of tobacco]?

Mr. BARKER. Yes, sir.

STATEMENT OF HON. J. W. GAINES.

Mr. GAINES. If the Chair will permit me, as you have called my bill in question, I will explain it in a few minutes, if desired, not taking your place on the witness stand, Mr. Barker, but merely interrupting you for a few minutes to explain this bill. (See p. 65.)

Now, Mr. Chairman, my bill provides:

> That it shall be lawful for any person to buy and sell tobacco unstemmed and in the leaf without license or the payment of any tax of any kind.

That says "any person." Under the present law "any person" can not deal in leaf tobacco free of tax, or license, or limitations. Only the grower can do this, and then he is confined to the tobacco of his own growing. He may stem and twist for his own use. He can not stem or twist to give away or sell. The grower's agent can only "solicit" orders for sale. The agent can not deliver. The grower must in person deliver directly to the purchaser. The grower may employ

a registered dealer as his agent, on commission; but that dealer, acting as such grower's agent, can only sell to three parties—dealers in leaf, manufacturers of tobacco, snuff, and cigars, and exporters. He can not sell to consumers, although the grower can. In other words, under the law the agent can not do what his principal is allowed to do.

Again, if the grower sells his growing crop to another person, that other person can not sell it again to consumers. He must register as a dealer and sell to other dealers in leaf, manufacturers or exporters. Again, if the grower sells to another person for his own consumption, and that other person desires afterwards to sell this leaf, he must register as a dealer, andt hen must only sell to manufacturers, registered dealers, and exporters. This section, the first section of my bill, will eliminate all these limitations, not only of the grower, but his agent, and the sale of leaf tobacco in its natural condition by any and every person.

The CHAIRMAN. Let me ask you this: The man that sells pays no license?

Mr. GAINES. The grower selling his own growth in the natural leaf pays no tax; he does if he changes the natural leaf for gift or sale.

The CHAIRMAN. Wait a moment. The man that buys it does not pay any tax if he does not change its shape or form.

Mr. GAINES. If a person other than the grower sells to consumers, the tobacco is taxed whether its form is changed or not. If the grower sells his growing crop to another person, that other person to sell that crop to consumers must qualify as a dealer and pay a tax. There is no tax on the grower's own growth if he sells it unchanged in its natural condition. There is no tax whatever on the privilege of export or on the tobacco export, whether manufactured or in the raw condition. What we want is every tax or license or limitation taken off of leaf tobacco and off of any and every person who now deals in it or who may hereafter deal in it, regardless of what his business is, and that the tax be placed upon manufactured tobacco, and that the tobacco grower shall be left to stem and twist and sell his own growth without tax, license, or limitation.

STATEMENT OF HON. A. O. STANLEY, OF KENTUCKY.

Mr. STANLEY. While there is no tax, there is a regulation that I would like to call the Chairman's attention to. I have been discussing the matter with Mr. Yerkes, the Commissioner. There is a regulation on the handling of this tobacco that has practically destroyed its usefulness in the hands of the farmer.

This twist, to make it perfectly plain, is nothing in the world but the leaves as they are taken from the stalk and hung up in the barn to dry, and then put in this form while they are in a condition where they can be handled—that is, they are tough, like bands. Then they take any form that you put them in. They take one leaf and, holding this tobacco in the hand like that [indicating], they wrap that leaf around it to hold it in shape, just as you would bind a sheaf of wheat.

This hand of tobacco in that shape can be sold by the farmer to whomsoever he pleases, if it is a farmer that sells it; but his tenant or his agent can not sell it in the same way. If this same tobacco right here is sold to Mr. Barker there, he is a dealer and he can not sell it except in certain quantities and under certain regulations. I can not purchase this tobacco and take it down South, or East, or West,

and sell it to whomsoever I please in this shape. Under the regulations and by the specific wording of the law, any man is regarded as a manufacturer, even of this tobacco, who handles it in less quantities than a bale or a hogshead, unless it is for export; so that this tobacco in its natural state can not be handled like corn, or wheat, or oats, but must be handled under restrictions of the Government, which I presume were intended to keep tab on the manufacturers.

That has practically destroyed the free exchange of commodities on the part of the men producing them in this case.

STATEMENT OF MR. GAINES—Continued.

Mr. GAINES. Now I will proceed. Mr. Stanley is a practical tobacco grower. I never raised any tobacco, but I have raised everything on the farm except tobacco and brimstone. [Laughter.]

I have given this matter, so far as the low part of it is concerned, a great deal of study and my constituents, as well as people from the States of Pennsylvania and Wisconsin and Tennessee, Kentucky and the Virginias, and North and South Carolina, and some from Connecticut have written many letters to me urging relief. There are about 22 or 23 large tobacco growing States in the country.

I will now get back to my proposition. The first section of my bill reads:

> That it shall be lawful for any person to buy and sell tobacco, unstemmed and in the leaf, without license or the payment of any tax of any kind.

If the grower sells his tobacco in the stalk his purchaser, if a consumer, must pay a tax of 6 cents per pound when he sells it. This is the law, says Commissioner Yerkes, as I shall soon read you.

By any person who buys it being taxed when he sells, the committee knows that is an indirect tax on the man who grows it, because if you put a burden on the man who buys you burden the man who creates the product. This burdens the grower and his vendee before the crop gets out of the ground. Think of it!

It prevents the neighbors of the tobacco grower from purchasing it. It bars trade. It destroys the liberty of the grower. In such case both parties are growers—the tobacco is uncut—in the stalk. Again, if any person sells leaf tobacco to a consumer or any person except registered dealers, exporters in packages or manufacturers of tobacco or cigars, such person becomes a manufacturer and must pay 6 cents tax, unless a grower. Your neighbor, if he would buy it, would have to be licensed to deal in it or sell it or give it away. "Dealers" can only sell to such manufacturers or registered dealers—persons registered—or for export.

So the whole matter is couched right in this, that the law is so hedged around the grower of tobacco that his liberty—liberty of action—his free agency is destroyed. He must deliver in person. He can not delegate his authority to sell and deliver. The tobacco trust can sell to consumers.

Again, the trust agent walks up to the tobacco grower and offers him a certain amount for his product, and the grower has to take that or nothing. I have letters and statements to the effect that a purchaser went up to a grower, Jones we will call him, and bought one barn of tobacco and paid the grower for it; and Jones had another barn of tobacco just across the road, right in sight, but the purchaser would not go over there to buy it, because he said, "This is as far as my

territory goes. I am not allowed to go across the road." That is the way the business is subdivided into districts, and it is all in the hands of this tobacco trust. This occurred in Cheatham County, Tenn.

So that the great tobacco manufacturers, the great tobacco trust—I do not care whether it is a trust with one head, or a trust with no head, and all tail, or all feet, or what it is—has the farmer right by the throat, and goes up to his tobacco field where he is giving it his attention in the early morning as he must (and the tobacco grower has to nurse tobacco as you would a sick child)—the agent of the tobacco trust goes up to the grower of the tobacco and says, "I will give you so much for your tobacco," and the purchaser has to take it or hang the tobacco up in his barn and wait for a day when he can sell it; and when he thinks that day has come, the agent of the trust is back there and says, "I will pay you so much, and no more." And if the farmer does not sell the tobacco at that, it hangs and hangs until it rots there.

COST TO RAISE TOBACCO.

It costs 6 cents a pound to raise tobacco in Robertson County, Tenn. and this year it sold at 3½ cents on an average. This county (and Kentucky) raise dark export tobacco. These gentlemen are all dark-tobacco growers.

EXPORTED.

Ninety per cent of the tobacco from Robertson County is sent abroad and no revenue comes from it. You can not tax it under the Constitution, excepting a stamp tax, to police it out of the country. (See 92 U. S. R., Pace *v.* Burgess, 372, and 117 U. S., p. 504, reaffirming 92 U. S., upholding this stamp tax in exports as valid police tax.)

Mr. JAMES, of Kentucky. Is it not true that in many instances the tobacco trust has absolutely shut up the factories and refused to purchase at any price?

Mr. GAINES. Yes; these wrongs have appealed to me as an officer and as an individual. It is destroying the liberty of the farmer by circumscribing his right of action. He is no longer a free moral agent. Not at all.

You have gone a step farther—and when I say "you," I mean both the parties in Congress have perpetrated this infamous law on the tobacco growers of the country. What else? Congress has said that hand stemming tobacco and hand twisting by the farmer of his own growth, sitting in his barn on a wet day, makes him a manufacturer——

The CHAIRMAN. Not when he does it just for his own use.

Mr. GAINES. But he can not give or sell it free of tax to anybody. He can not give it to members of his family without paying a tax on it. That is the law, as shown in Mr. Yerkes's letter to me last March, and it is here in my speech which I have before me of December 14, 1903. I will insert his letter in part here:

MR. YERKES'S LETTER.

WASHINGTON, *March 12, 1903.*

Hon. JOHN W. GAINES,
Member of Congress, House of Representatives.

SIR: I have received your letters, dated 7th and 9th instant, respectively, presenting the following questions:

1. You ask, Did the Fifty-sixth or Fifty-seventh Congress relieve tobacco growers *of taxes on tobacco raised by them*; and if so, under what statute and section thereof?

2. Does the law tax—and if so, how much—tobacco growers when they stem or twist their tobacco for their own use or to sell the same?

3. Can tobacco growers stem or twist their tobacco for their own personal use without paying a tax?

4. Can tobacco growers stem or twist their tobacco for the purpose of giving it away without paying a tax?

5. You ask for the departmental or judicial definition of the term "dealer in tobacco."

6. You ask for the definition of the term "manufacturer of tobacco."

7. You ask whether a tobacco grower who stems or twists his tobacco grown on his own farm or purchased from a neighbor is a manufacturer, or, in other words, whether stemming or twisting tobacco is manufacturing.

Mr. Yerkes replies to these questions as follows:

From the foregoing premises, I [Mr. Yerkes] am constrained to answer your questions categorically, as follows:

1. That Congress has never imposed a tax on natural-leaf tobacco in the hands of farmers, but only upon leaf tobacco which they may have sold directly to consumers.

2. Under the present law a tax of 6 cents per pound is imposed upon all tobacco stemmed or twisted by a farmer not intended for his own personal use.

3. A farmer may stem and twist tobacco for his own use without incurring liability to tax on such tobacco.

4. Stemming or twisting tobacco is regarded as manufacturing, and a grower or planter can not lawfully stem or twist his tobacco for sale or for the purpose of giving it away without payment of tax. If he should engage in that business he would be regarded as a manufacturer of tobacco and be required to qualify as such by registering with the collector of the district, filing statement and bond, and to pack, label, and stamp his product, as provided by regulations No. 8, pages 5 and 6.

5. "Every person whose business it is to sell or offer for sale manufactured tobacco, snuff, or cigars shall be regarded as a dealer in tobacco."

6. My answer to question 4 is an answer to question 7.

7. The term "manufacturer of tobacco" is defined in the first and second paragraphs of section 69, act of August 28, 1894, amending Revised Statutes, 3244, which section 69 provides that—

"Every person whose business it is to manufacture tobacco or snuff for himself, or who employs others to manufacture tobacco or snuff, whether such manufacture be by cutting, pressing, grinding, crushing, or rubbing of any raw or leaf tobacco, or otherwise preparing raw or leaf tobacco, or manufactured or partially manufactured tobacco or snuff, or the putting up for use or consumption of scraps, waste, clippings, stems, or deposits of tobacco resulting from any process of handling tobacco, or by the working or preparation of leaf tobacco, tobacco stems, scraps, clippings, or waste, by sifting, twisting, screening, or any other process, shall be regarded as a manufacturer of tobacco."

The second paragraph of that section provides that—

"Every person shall also be regarded as a manufacturer of tobacco whose business it is to sell leaf tobacco in quantities less than a hogshead, case, or bale, or who sells directly to consumers, or to persons other than duly registered dealers in leaf tobacco or duly registered manufacturers of tobacco, snuff, or cigars, or to persons who purchase in packages for export; and all tobacco so sold by such persons shall be regarded as manufactured tobacco, and such manufactured tobacco shall be put up and prepared by such manufacturer in such packages only as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe: *Provided*, That farmers and growers of tobacco who sell leaf tobacco of their own growth and raising shall not be regarded as manufacturers of tobacco; and so much of section 3244 of the Revised Statutes of the United States, and acts amendatory thereof, as are in conflict with this act are hereby repealed."

Commenting on these sections the Commissioner says:

In the first paragraph every person is regarded as a manufacturer of tobacco who in any manner prepares his leaf tobacco for consumption by crushing, twisting, stemming, grinding, or otherwise changing the tobacco from its natural condition.

In the second paragraph every person is regarded as a manufacturer of tobacco who sells and delivers his leaf tobacco in its natural condition to consumers, or to persons other than registered dealers in leaf tobacco, manufacturers of tobacco or cigars, or persons who buy leaf tobacco in packages for export, and all leaf tobacco so sold by such person is regarded as a manufactured tobacco subject to tax; but there is this exception, that farmers and growers are not to be regarded as manufacturers for selling leaf tobacco of their own growth and raising.

The farmer can not change the natural leaf for gift or sale without paying a tax of 6 cents a pound and putting it up in boxes, which are such great burdens that he can not do either and keep out of the poorhouse.

Mr. TAWNEY. Have you endeavored to pass this bill in the House?

Mr. GAINES. No, sir. I have only made a speech December 14 last to bring it to the attention of the House and of the country. I pledge you my word that I have met the best lawmakers in Congress, and they would hardly believe me when I stated correctly what the law is on this subject, when I told them that the law is that to hand-stem or hand-twist leaf tobacco for gift or sale by the man that grew it is manufacturing and the grower a manufacturer.

The CHAIRMAN. It is if he does it for sale?

Mr. GAINES. For sale or gift either, to any person—even his own family.

The CHAIRMAN. He can do all that for his own use.

Mr. GAINES. Exactly so; but more, he can not sell it or give it away without paying 6 cents tax per pound.

The CHAIRMAN. It seems to me that your proposition was to destroy what might be called a monopoly by knocking the bottom out of the entire tobacco-revenue system of the United States—taking the foundation out from under the whole business.

Mr. GAINES. Not at all, Mr. Chairman; simply this——

Mr. STANLEY. Let me interrupt you there just for a moment, please. I believe when this committee realizes the direct and positive material benefits that this proposed legislation would produce to a vast number of men—the small handlers of tobacco—the desire of the committee will be to do what is asked, if they can do it without material injury to the revenues.

The CHAIRMAN. Have you any idea how the revenue would be affected?

Mr. STANLEY. Yes; the revenue is $43,000,000 annually, I think, in round numbers. I have made a most exhaustive investigation of this question, and I have just spent an hour with the Commissioner of Internal Revenue, who has written to each collector of internal revenue on the subject; and I can say frankly that I do not think there has been a greater Commissioner of Internal Revenue in a hundred years than the present one. He says that my estimate of $2,000,000 less by the taking of the tax off of the tobaccos, stemmed and twisted, is very, very liberal; that it not only takes into consideration all of the loss of revenue now, but the possibility of a loss of tax, and that is where the greatest part of it would come—in manufacturers of tobacco forcing the sale of the untaxed article.

Mr. HILL. Is not the real danger here that this very highly taxed article, in its manufactured form, must be taken at the very start in order to trace it to prevent fraud on the revenue? Can the Commissioner overcome that?

Mr. STANLEY. Yes, sir.

Mr. GAINES. Yes; if you take the tax entirely off leaf tobacco.

Mr. HILL. It is not a question of a loss of revenue that concerns me, but whether they can trace it afterwards.

Mr. GAINES. Farmers are no more capable of committing fraud than anybody else.

Mr. HILL. No; but I am thinking about the time after it leaves their hands.

Mr. JAMES. If the present conditions continue, the farmers will have to quit raising tobacco and starve.

Mr. GAINES. A number of counties in Kentucky have already agreed to quit raising tobacco. In two or three counties in Kentucky they are agreeing to do so. If the present conditions continue, they will do it all over the country for the simple reason that they can not make a living out of raising tobacco that costs them 6 cents per pound to raise and sell it for 3½ cents.

I will get back to the question of revenue now. Mr. Yerkes has been trying to find, not only at my request but at the request of several others, how much this would liberate. Whether it would lessen the revenue any or not I do not know. I have no data to go by.

Of this dark tobacco, as it now is, about 80 per cent is sent abroad and no revenue whatever comes from it, absolutely none. Whereas if you let the farmer stem it and twist it and sell it to his neighbor a market would be created for it here and competition created also. It would then, in part at least, get back into the hands of the manufacturer, and would be ground by them into smoking tobacco or other manufactured, on which they pay a tax. The moment the manufacturer goes to manufacture it, to change that condition from its stemmed condition or twisted condition, it becomes taxable at 6 cents a pound.

I want to read an opinion of Mr. Yerkes, which throws a great deal of light on this subject, as he is a very capable and able man. As it is now all the "dark" tobacco, you may say, is exported. Eighty per cent, I am told, of it is exported. The other 10 per cent they chew around home, I presume.

The CHAIRMAN. By exported, do you mean sent to foreign countries?

Mr. GAINES. Yes; sent clear out of the country, to Italy, France, Spain, Germany, and England, and all those great monopolist monarchies over yonder that come over here and buy tobacco and sell it to the people over there. They get this dark tobacco from the dark-tobacco counties.

Mr. TAWNEY. If that is so, what is the necessity, then, for this law, so far as it relates to dark tobacco? There must, then, be several buyers, or competition, at least.

Mr. GAINES. No; they send just one man to buy for all these countries.

Mr. STANLEY. Right there, not to interrupt you, I would like to say just a few words. The American Tobacco Trust, as it is called, attempted to control the market in the United States. That they succeeded in doing completely. Then they concluded they would control the market in England, and they sent 10,000 hogsheads of tobacco to Great Britain.

When this was done, seventeen of the leading tobacco manufacturers in Great Britain formed themselves into an organization for the purpose of fighting this American Tobacco Trust. They made it a propaganda, patriotic in its features. They carried it to the small dealers until they reached the point where no customer would buy any article of the American Tobacco Trust that had this mark on it. They would not sell to any dealer who would handle any article of the American company. The American company got into

trouble in the courts. They found they had 10,000 hogsheads of tobacco and millions of dollars of property over there that was absolutely useless to them. These seventeen leading tobacco buyers (and they are all enormous concerns, because it takes an enormous concern to handle tobacco with a tax of 72 cents on a pound), after they had driven the American Tobacco Trust out of Great Britain and had given the shipper the assurance that they were doing it in the interest of the independent companies (my town alone is the largest shipping tobacco market in the world), as soon as this was done, these seventeen fellows made themselves into an organization called The Imperial Tobacco Company, of identically the same character, and took these 10,000 hogsheads of tobacco off their hands.

Mr. HILL. What is the price of this export tobacco—the tobacco that is sold for export? What do the farmers get a pound for it?

Mr. STANLEY. They used to get an average of 7 or 8 cents a pound.

Mr. GAINES. They received this season, in Robertson County, Tenn., 3½ cents a pound on an average, and it costs them 6 cents to raise. This 50 intelligent tobacco farmers found last week after close investigation. I was so informed by letter.

Mr. HILL. For export?

Mr. GAINES. Yes, sir; 3½ cents a pound, average.

ADDITIONAL STATEMENT BY MR. STANLEY.

Mr. STANLEY. Tobacco varies, like a blooded horse. A slight difference in texture, a slight difference in color, makes a great difference in price. I have a statement here, which I will produce to this committee later, from at least half a dozen men who have sold on an average 2,000,000 pounds a year, that the price of tobacco in the dark-tobacco districts has been cut at least 100 per cent and more; that tobacco that brought 7 cents a pound now brings 3, and that which formerly brought 8 cents a pound will now bring 3½ cents a pound, and so on.

Mr. TAWNEY. Why is it that you have not more than one buyer?

Mr. STANLEY. I will tell you. They formed this Imperial trust in Great Britain, with these 10,000 of the American Tobacco Company, and they have entered into an agreement with the American trust to do away with the middleman entirely. They have closed up the firm of John H. Barrett & Co., in my town, that has been open for fifty years and is worth $2,000,000. They have closed up Burbank's establishment, which has been in constant operation more than fifty years; and one man in that institution has made nearly $2,000,000 in the business. They have closed up all of the Sopers, three or four of them, who have been in operation fifty or sixty years. Richard Soper himself has been buying tobacco at one stand for over sixty years, and he and his father have been doing it for over seventy-five years.

The CHAIRMAN. That is all the result of this foreign monopoly?

Mr. STANLEY. Exactly. They have agreed to do away with the middle man entirely, and now they have an agent of the Imperial Company and an agent of the American Company like two pups in a basket, right in my town, with one buyer for both.

The CHAIRMAN. I wish you would tell me this, for information; I want to understand it. How will the operation of this bill of Mr. Gaines bring about a multiplication of buyers?

Mr. STANLEY. I will show you. I do not want to take up your time, to the exclusion of these other gentlemen.

The CHAIRMAN. It makes no difference about the order. We want facts.

Mr. STANLEY. This tobacco pays a tax of 72 cents in the ports of Great Britain.

Mr. HILL. Explain how.

Mr. STANLEY. It is the only tobacco in the world that they will buy—the dark tobacco, like this sample here.

The CHAIRMAN. You mean in that shape? [Indicating sample.]

Mr. STANLEY. Yes; they buy it in strips. But just exactly as is the case with fine imported goods brought into this country, you can not afford to import goods that pay a tax at the port of entry of a dollar a yard unless they are good stuff. Therefore they can not afford to pay 72 cents a pound tax on tobacco unless it is the finest smoking tobacco in the world. For that reason this is driving all other tobaccos out of the English market. It is the finest tobacco on earth in flavor, in body, in texture, in the delicious aroma of it. It is the finest tobacco on earth, and up to this time the foreign market has taken it all. It requires much skill to put it into this form. I do not mean manual skill; but the tobacco has to be taken at a certain stage to be put into that twist. It becomes pliable and tough, and the men who do the work can tell when it is at just the right stage. No manufacturer ever learned to do it or ever will learn to do in this world with any degree of success. These people down there, however, do know how to make this twist. When they do it that twist at 5 years old is worth twice what it was at 2. It grows in flavor, and it grows in strength, and it grows in value with age.

If you will allow the farmer to twist this tobacco in this form, it will go into a market never found before, and it will find its purchasers among all Americans who use it, and especially in the South. The negro in the South uses very little tobacco and buys an inferior quality. This tobacco can be sold down there, if you can get the tax removed from it, in this shape, and they will use thousands and thousands and thousands of twists of it.

Of course, it would not affect the revenue now materially, but in four or five years it is a fact that this tobacco, being so superior and so pure and mellowing with age, would come in demand in place of tobaccos that do pay a tax. However, it would always come from the farmers, as it is bound to do, just like hand-made whisky or country hams or a hundred things that manufacturers can not produce like the home-made article. It will always come right straight from the producer. In addition to that, he has it in that form so that he can sell a little of it or much of it. He can leave it in that twist until the market is found for it. It will make it a commodity like corn or wheat or butter or eggs, and it will not have to find its way through the taxed dealers.

As it is, this tobacco (twist) can not be sold until it pays a tax of 6 cents, and the poor man can not pay that to sell it.

Mr. TAWNEY. I understand, then, that this tobacco would not have a competitor in the market; that the American Tobacco Company could not produce tobacco in that form.

The CHAIRMAN. No, sir.

Mr. METCALF. It must be taken at a certain stage——

Mr. GAINES. And the farmer could sell it to his neighbors around the country, which he can not do now.

Mr. JAMES. Would not the purpose of this bill be to give to the farmer a home market that would enable him to sell his tobacco at a reasonable living price and would force the monopoly that is in England to compete with the public in the purchase of its tobacco and thereby give him a reasonable price for his product?

Mr. STANLEY. I will tell you what it would do, and this is a conservative estimate. This tobacco here (twist), in that shape [indicating sample], is worth 3 cents a pound. I can take those twists to-day myself and I can start up and down the railroads (because those railroad men that come through that dark tobacco section all get to using that tobacco) and I can sell 10,000 of them.

Mr. METCALF. Have you any objection to my cutting off a little of this?

Mr. STANLEY. No, sir. I wish that every member of the committee who smokes would do so. I have seen it time and time again, especially we politicians find that out in traveling through the country.

STATEMENT OF MR. GAINES—Continued.

Mr. GAINES. Mr. Chairman, I will read you just two things. One is the opinion of Mr. Yerkes, and the other is an account of this monopoly, the way they are managing this thing. Then I will ask the chairman to hear these farmers who have come here from the different States. You can hear the Members of Congress, of course, at any time on this subject, and we would be very glad to discuss the question at any time. So far as I am concerned, I would not have said anything if my bill had not been in question and an explanation of it asked.

Inasmuch as we are talking about this question, I will read a clipping from the Nashville American, which was copied in all the Kentucky and Tennessee papers, and is well authenticated in this, that I know the correspondent, at least last year, of the paper at Ashland City, Mr. Justice, one of the best men in the place. He has written of this remarkable state of things, which goes undisputed:

TOBACCO TRUST—HOW IT WORKS.

CHEATHAM TOBACCO GROWERS DISCOURAGED.

[Special dispatch to the American.]

ASHLAND CITY, TENN., *January 22.*

The tobacco growers of this county are very much discouraged on account of the slowness of the market this season and the low prices. The best price yet paid in this county was 8 cents for leaf and 2 cents for lugs, the crop bought at this price being one of the best in the county. But little of the crop in this county has been sold and practically none has been delivered. The tobacco trust is what is causing all the trouble. There is no competition in the buying, the dealers all having contracts with those who are in the trust, hence the buyers are taking their time and are paying their own prices. In this county each buyer has a certain district to canvass and buy in, and he is not allowed to get out of that district and no other buyer is allowed to go into his district, all the buyers working for the trust people. The entire black-tobacco section is laid off into districts, and each district is assigned to one man. To illustrate this: A few days ago a buyer went to a barn of a certain farmer, the barn being on one side of the Ashland City and Thomasville road. The buyer

examined the tobacco in that barn and bought it, whereupon the farmer invited him to go to another barn just across the road and see the tobacco there, it being a part of the crop which he had just bought. The buyer had to decline, saying that road was the line for him and he must not cross it.

Practically nothing has been done toward preparing for this year's crop, and not a plant bed has yet been burned. A great many will plant no crop, and they are urging upon their neighbors the no-crop proposition, owing to the conditions that now prevail.

What does it cost to raise that tobacco a pound, Mr. Warfield?

Mr. WARFIELD. Well, the general estimate is that they can not raise it for less than 6 cents.

Mr. GAINES. And they are selling it at 3½ cents this year on an average in Robertson County?

Mr. METCALF. How many pounds are there to an acre?

Mr. WARFIELD. Six or seven hundred.

Mr. GAINES. Gentlemen of the committee, Mr. Warfield is one of the most experienced tobacco men of Montgomery County, Tenn. Is it not a fact, Mr. Warfield, in different counties in Kentucky and Tennessee, in this black-tobacco region, 75 or 80 per cent of the farmers have agreed that they will quit raising tobacco and not raise any next year?

Mr. WARFIELD. That is true as to some of the counties there.

Mr. GAINES. Because of this oppressive internal-tax law—the regulations thereunder. As indicated by the newspaper article that I have just read, this trust will send out possibly half a dozen men, or maybe one man to a county, but they are all buying for one man—one master—and at a price that one man fixes.

Mr. TAWNEY. Is each man confined to one district?

Mr. GAINES. Each man has one and the same master and is confined to one district, so that the farmer has to yield to this man or put his tobacco in his barn and let it hang there. The grower wants freedom of action to fight this crowd.

Mr. BARKER. You can not find a barn in the district that two of those men have been into.

Mr. STANLEY. Under conditions as they exist at present, they have one buyer who will look at the tobacco, and tell what he will pay for it; and he will say: "Take it to the Imperial Company tobacco warehouse over there." Another will come along and say: "Take this to the American tobacco house, over here." And there are five tobacco warehouses in my town under the control of the American and the Imperial Tobacco Company. They have an absolute understanding, and one man does the buying where twenty did it before.

Mr. GAINES. We ask that you let the farmer stem and twist his own tobacco, untaxed; that he be allowed to stem and twist it, not with machinery, but hand stem and hand twist it, with these ten fingers that God Almighty gave him; let him stem and twist the tobacco he grows, and he will create an article that is not now created in the neighborhood, and will sell it in the neighborhood among his neighbors, and compete with the tobacco of the trusts or anybody else. Then untax the natural leaf in any person's hands.

Mr. TAWNEY. Does your bill limit this to the producer?

Mr. HILL. It says "any person," does it not?

Mr. GAINES. It says that any person that buys leaf tobacco shall go untaxed, and it gives the tobacco grower the right to hand stem or twist the tobacco he grows. Even then he would have to compete

with machine-made tobacco. I wish to read to the committee a letter which Mr. Yerkes sent to me ——

Mr. W. W. KITCHIN. Permit me to interrupt you for a moment. Is not the object of your bill, or the result of it, to take this hand-twisted and hand-prized tobacco out from the definition of manufactured tobacco?

Mr. GAINES. Exactly, and give a purchaser of tobacco in the stalk the right to sell without tax or license, now disallowed.

Mr. W. W. KITCHIN. To relieve it from the taxes altogether?

Mr. GAINES. Yes. The second section of my bill reads:

That it shall be lawful for any grower of tobacco to sell his own product—

I am answering Mr. Tawney's question now—

to sell his own product or to deliver to another person any tobacco grown by himself, to be by such person carried to market and sold for the benefit of the grower; any tobacco grown by such planter. in the hand or in the leaf, or stemmed, or stemmed and hand twisted, or stemmed and hand pressed, or hand twisted, or hand pressed, without license and without the payment of any tax of any kind: *Provided*, That such planter shall furnish to the person by whom he sends it to market or offers it for sale a written authorization for that particular transaction, specifying the number of pounds.

This would give the grower the right to stem or twist by his fingers and delegate his right to sell his crop to his son, or agent, a right denied him.

Now, I want to read this opinion Mr. Yerkes sent me to-day, issued to some Kentucky tobacco growers. My bill relieves the grower of some of the burdens shown by this letter. I now read:

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 7, 1902.

SIR: In your letter dated 2d instant you present several questions concerning the sale of leaf tobacco by and for farmers who raise the tobacco, or who receive the same from tenants or who buy the same while it is growing in the fields, and also whether a number of farmers may employ an agent to travel from place to place and sell the tobacco for them.

GROWER CAN NOT DELEGATE AUTHORITY TO SELL FOR HIM.

In reply you are informed that a farmer or grower of tobacco may sell tobacco of his own growth or raising, or that which he receives from his tenants as rent for land, without restriction as to the quantity sold or the business of the person to whom the tobacco is sold and delivered. This privilege is one which the farmer or grower can not delegate to another person.

Mr. GAINES. My bill allows him to "delegate"—sell by another person, his agent.

The office has decided that where a grower of tobacco sells his crop before it is severed from the land to another person, the purchaser would not be privileged to resell the tobacco to consumers without payment of the tax.

Mr. GAINES. My bill allows free trade in leaf tobacco.

A farmer or grower of tobacco may place his tobacco in the hands of a qualified dealer in leaf tobacco to be sold by him on commission, and such dealer must sell the tobacco only to other qualified leaf dealers or to qualified manufacturers of tobacco or cigars, or to persons who buy leaf tobacco in packages for export.

Mr. GAINES. My bill removes this restriction.

Any arrangement made by a farmer, or a number of farmers, with another person to sell and deliver his or their tobacco for him or them while traveling from place to place would be in violation of law. An agent who is paid a stipulated salary may travel and solicit orders for the sale of tobacco raised by another person, but he may not deliver the tobacco to purchasers; nor can he sell tobacco on commission, or receive as compensation for his services the difference between the price as fixed by the farmer and the selling price.

Mr. GAINES. My bill abrogates these limitations.

All tobacco sold by an agent for the farmer who raised the tobacco must be delivered by the farmer, and not the agent, directly to the person who purchased the tobacco; and a farmer must sell his tobacco in the condition in which it was cured on the farm, and can not stem, twist, plait, roll, sweeten, or otherwise manipulate it for sale to consumers.

Respectfully, J. W. YERKES, *Commissioner.*

Mr. GAINES. I have a crop of tobacco and sell it to my friend, Mr. Tawney. He has to pay a tax before he can sell it to a consumer.

Mr. TAWNEY. Whether I change the character of the tobacco at all or no

Mr. GAINES. Whether you do anything with it—even while it is growing in the field. Mr. Tawney can, in his own proper person, sell his leaf tobacco to some one in New York City, or he may sell it through a qualified dealer, but that dealer must sell to qualified dealers or for export. I can not authorize my son to deliver for me.

Mr. TAWNEY. Suppose I am buying for export, and I purchase your entire tobacco crop, or any part of it, can I ship it and sell it to some foreigner without being licensed?

Mr. GAINES. Yes. I think two-thirds of our tobacco is exported and does not give us one bit of revenue. I have the figures here to tell you how much we export. It is in my speech to which I have referred before. Almost everything good on this subject is in that speech. [Laughter.] It does not pay a particle of tax. Look at page 3 of my speech and you will find that point referred to in a recent letter to me from Mr. O. P. Austin, of the Commerce and Labor Bureau. The last internal-revenue report shows we exported in 1902 domestic leaf 353,317,385 pounds, valued at $34,393,294, and stems 10,751,955 pounds, valued at $247,221; total, 364,069,340 pounds, valued at $34,640,515.

Mr. TAWNEY. It is a fact, then, that if I buy and sell again for domestic purposes here, and though I may not change the form of the tobacco by manufacturing or any process whatever, I am obliged to take out a license and also to pay a tax.

Mr. GAINES. Exactly so if you buy the "growing" crop, or a non-producer sells leaf to "consumers," you then pay 6 cents per pound, and thereby hangs our tale of woe.

Mr. METCALF. You are then a taxed dealer. You say that you gave the figures in the speech delivered by you in the House?

Mr. GAINES. Yes.

Mr. METCALF. Did you get those figures from the Commissioner of Internal Revenue?

Mr. GAINES. They are official, from O. P. Austin to me. Read the last Internal Revenue report—it comes down to date—1902, page 23.

Mr. STANLEY. The purpose of this law is one thing; its effect has been another.

Mr. GAINES. I wish to read this from the Bureau of Statistics, gotten up by Mr. Austin, set out in my speech:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF STATISTICS,
Washington, December 12, 1903.

DEAR SIR: Replying to your verbal inquiry regarding the share of the tobacco crop of the country not sold for manufacture or exportation, and therefore, presumably, consumed by the producers, I have the honor to say that the United States census of 1900 reports the total tobacco crop of 1899 at 868,163,275 pounds in the cured state. It further reports the amount consumed in factories and exported in 1900 at 662,818,341 pounds, but says that the tobacco loses from 15 per cent to 20 per cent in the sweating process after leaving the farm but before its manufacture or exportation. Allowing 20 per cent for the loss from the sweating process between the farm and the factory or export dock, the 662,818,341 pounds manufactured or exported would represent 828,522,293 pounds when sold by the farmers.

The census report also states that the loss by the stemming of tobacco exported has been estimated to amount to as much as 3½ per cent of the entire crop of the country, which would be 30,385,715 pounds. It also estimates the loss by fire at one-half of 1 per cent, or 4,340,816 pounds. To obtain the amount retained in the hands of producers it would therefore be necessary to subtract from the total production:

	Pounds
The amount manufactured and exported	662,818,341
The loss by sweating between the farm and the factory or export dock	[a] 165,704,585
The loss by stemming	[b] 30,385,715
The loss by fire	[c] 4,340,816

Combining these four totals, the amount manufactured and exported, the weight lost by sweating, the loss by stemming, and the loss by fire, produces a total of 863,249,457, which, subtracted from the total product, 868,163,275 pounds, would leave a total of 4,913,818 pounds unaccounted for, and presumably retained by the farmers. It is proper to add that this total is in substantial agreement with the census report, which estimates the "home consumption by farmers and the sale of tobacco to their neighbors" at about one-half of 1 per cent of the total crop, which would be 4,340,816 pounds.

Very truly, yours,

O. P. AUSTIN, *Chief of Bureau.*

Hon. J. W. GAINES, M. C.,
1325 G street NW., Washington, D. C.

The CHAIRMAN. We have only about twelve minutes left. Had we not better hear from some of the farmers who are here?

Mr. D. H. SMITH. I will ask Mr. Cooper, who is familiar with the business, to address the committee first.

STATEMENT OF R. E. COOPER, OF HOPKINSVILLE, KY.

Mr. COOPER. I would like to say that I am only a common farmer, and I hope the committee will put up with my statement and make allowances accordingly.

As a boy raised on a farm, and later engaging in the tobacco business, for the past seventeen years I have been selling tobacco for farmers in what is known as tobacco commission warehouses at Hopkinsville, Ky.

We had there when I went in the business eight tobacco warehouses, eight firms. Then the farmers put their tobacco in hogsheads and sent it to us. We had it sampled, as you see these samples here, and sold it in the open market. At that time we had from forty to fifty buyers on our market, and they would assemble around a table, just as the committee is assembled around this table, and we would start in

[a] Loss of 20 per cent. [b] Loss of 3½ per cent. [c] Loss of one-half of 1 per cent.

with these samples of tobacco, all tagged, labeled, etc.; and each of those buyers represented a distinct and separate manufacturer or country at that time.

Mr. GAINES. You say a distinct manufacturer or country?

Mr. COOPER. Or a foreign country—yes, sir.

As Mr. Gaines has already stated, 80 per cent of the dark tobacco grown in our section is for export. Ten per cent, possibly, of that amount goes into snuff in this country, and possibly 10 per cent goes into home consumption in the way of twist—around the smaller factories that use it in a very limited way.

To-day, instead of having the forty or fifty buyers, we are without a tobacco market at all. The American Tobacco Company sends Mr. Norman Smith to our town, who has charge of all four of the markets, not only of the Hopkinsville market. His home is Clarksville. He comes down there, and we have to lay out our line of tobaccos, and instead of having competitive bids he says: "Cooper, I will use that lot of tobacco for you after it is prized and put in hogsheads." That is the old custom—for it to be prized and delivered—and that would cost him about half a cent a pound to pay the expense of it. He will tell me that he will give me three and a half to four cents a pound for the tobacco, and I have nobody else to sell it to and I have to accept that price.

The CHAIRMAN. Is he the only licensed dealer?

Mr. COOPER. No, sir; I will explain that more later on. He represents, however, the control of the larger part of our tobaccos. In the days when we had manufacturers as bidders we had forty to fifty bidders. Now we are limited to possibly three or four. Mr. Smith is the principal one.

The American Tobacco Company succeeded in closing all the snuff factories. At one time we had 38 snuff manufactories in the United States. To-day we have 98 per cent of those in the American Tobacco Company, known as the American Snuff Company. There is one remaining, at Nashville.

Mr. GAINES. That is in the trust, I am told.

Mr. COOPER. Has the Standard gone into it?

Mr. STANLEY. Yes.

Mr. COOPER. Then we are out entirely.

Mr. METCALF. Are they operating all those factories?

Mr. COOPER. The American Tobacco Company?

Mr. METCALF. Yes.

Mr. COOPER. They are principally in New Jersey, Philadelphia, and at Nashville and Clarksville, Tenn.

Mr. METCALF. You said that the snuff factories had gone into the hands of the tobacco trust. Does the tobacco trust operate the snuff factories to-day?

Mr. COOPER. Yes, sir. That was the place we had to put about 10 or 15 per cent of our tobacco, and practically all the place we had in this country. We stood that for a while, and now about 30,000 hogsheads annually go to England; it is stripped and sent on the English market, and, as has been stated to you, they capture the English market under what is known as the Imperial Tobacco Company, the American Tobacco Company controlling it. That takes out all the English competition that we had. And when I say 30,000 hogsheads of tobacco, that means one-third or one-quarter of our entire crop is wiped out.

We sent to Bremen, which had been an open market heretofore, until last year, a quantity of tobacco, to sell it on the open market there. This year the American Tobacco Company, when we shipped our tobacco to Bremen, took from their reserve a quantity of tobacco and put it on the market at cost. I was one of the unfortunates. We put our tobacco on the Bremen market, expecting to have a sale for it, but instead the American Tobacco Company put its tobacco on the market there in opposition, and sells it at prime cost here—just what it cost, without any freight or expenses; and it costs us 2½ cents a pound to ship tobacco and sell it in Bremen to pay the expenses of it. The American Tobacco Company threw their tobacco on the market and just knocked ours out entirely—at a tremendous loss to the American Tobacco Company, of course—but while they can stand the loss, we can not. We have our tobaccos in Bremen to-day, and we can not sell them, from the mere fact that they have put the price lower than the cost of the tobacco at home.

Mr. GAINES. Tell the committee how you want to cure this trouble; what remedy or legislation you desire.

Mr. COOPER. I want the privilege of handling this tobacco. This is what we call a "hand"—simply twisted. We want the privilege of selling this tobacco to whom we please. Let a farmer, dealer, or merchant handle it. If the farmer owes the supply store that furnishes him his supplies for the year, he can take this tobacco in a box and deliver it to the proprietor of the store and let him give it to his wholesaler, and pay his debts that way. The tobacco will find the trade in the South.

Now, the poor people would use this tobacco if they could get it at a reasonable price. At present, however, we can not offer it to them, by reason of having to comply with the law.

You gentlemen are no doubt familiar with the revenue laws, but I have had some experience myself with them. They are so complicated that there is scarcely anyone who is not well trained and well drilled in them who can keep from violating them. We can sell this tobacco by paying 6 cents a pound.

Mr. GAINES. To your neighbor, to chew or to smoke?

Mr. COOPER. Yes; but to do that we have to get a license as a dealer and give a bond of about $5,000. Then the law provides that it shall be put up, by order of the Commissioner of Internal Revenue, in certain packages and forms. A variation from that is subject to a fine of from $300 to $3,000, I think. I may not be correct about that, but that is about it. If you should be required to put it in a pound box and should put it in a box weighing a pound and one ounce, the revenue man comes along and you are subject to a fine of $500. They say that it shall be put in a box of a certain shape and size, subject to a fine for violating that provision. They even specify that the stamp is to be put on in a certain place.

Mr. GAINES. You would have to put it in a box and pay a tax to sell it to your neighbor—even to sell him two pounds. You would have to pay a tax of 6 cents a pound.

Mr. COOPER. As a licensed manufacturer we would have to put it up in certain packages, as specified.

Mr. JAMES. On the question of revenue—the chairman asked whether this bill would affect the revenue. Tell the committee whether or not, in your judgment, if the condition that now exists in the dark-tobacco market is perpetuated, it will affect the revenue.

Mr. COOPER. One moment. I do not think I have made myself clear as to how we expect this proposed legislation to help us out. If, as I started to say, we could pay off our debts with tobacco in lieu of the money, it would be a great help. As soon as the tax would be removed there would be a market and people would begin to send orders to the markets for tobacco, possibly in hogsheads in the original package, or orders for a hundred pounds, etc. That would place right around our board again the large number of buyers that we had before, and the farmer would have a chance to sell his tobacco under competition, instead of having only one, two, or three men as buyers under the dictates of the American Tobacco Company. Instead of that we would have the board again, with 40 or 50 men to buy tobacco.

You understand that this tobacco grows on a stalk, originally, like corn on a stalk, and when you remove the stalk you have only taken off the jacket. Tobacco with the stem on it is like corn on the cob. Tobacco in the twist is only like putting corn in the sack, for the sake of having it in a convenient form, so that it will not crumble. It is done to preserve it. In this case [indicating] you see how it crumbles. It is subject to the atmospheric changes, and it crumbles very quickly. We want the privilege of sending this tobacco in the "hand," leaf tobacco stemmed—that is, drawing out this part of it right here [illustrating with one of the samples of tobacco]; the main body of that leaf.

Mr. GAINES. The backbone.

Mr. COOPER. Yes. We want the privilege of selling leaf tobacco, stemmed and twisted, and for any person to handle that. You will see that that would put into the trade numbers of men that have not the money to comply with the revenue laws, who would go to work stemming that tobacco. The farmer can go at it himself, or any other person can go into the business. We do not propose to conflict with the manufacture of tobacco at all.

I have here a petition from the tobacco growers and dealers of Kentucky and Tennessee in convention assembled at Guthrie on the 28th day of January, 1904, which I would like to read to the committee.

Mr. GAINES. You talk so intelligently, and the time is so limited, that I would suggest that you continue your original argument and file that paper with the committee.

Mr. COOPER. There is one part of it at least that I would like to read to the committee, and that is this:

> Therefore, we earnestly petition and pray that the Congress of the United States do so amend the revenue laws as to permit any person (farmer, merchant, or dealer) to sell leaf tobacco in the hand, leaf tobacco stemmed, leaf tobacco stemmed and twisted, not mixed with any foreign ingredients or flavoring, to the consumer or to the trade, in any quantity free of any tax whatever.

Mr. GAINES. The tobacco which you are talking about is this tobacco, of which 80 per cent is exported?

Mr. COOPER. Yes, sir.

Mr. GAINES. And not one bit of revenue from that goes to the Government except the excess above the 80 per cent that is exported?

Mr. COOPER. Yes; except the part that goes into snuff.

Mr. GAINES. If they were allowed to sell it in the hand, as you have described, or twisted, it would supply a demand at home that is not supplied, and could be, ultimately, even in the twist or in the hand, manufactured and be made into smoking or other tobacco where the tax does attach?

Mr. COOPER. Yes, sir.

Mr. METCALF. You say the tax on the tobacco is 6 cents a pound?

Mr. COOPER. Yes.

Mr. METCALF. Suppose the tax to the farmer selling it in that shape was reduced to 4 cents or 3 cents a pound?

Mr. COOPER. The effect would be the same. I would just as soon have it 12 cents as 6.

Mr. METCALF. Supposing it should be reduced to the producer of the tobacco from 6 cents to 3 cents?

Mr. COOPER. That would not be the relief we want. In getting stamps you have to pay the money for them. We have not the money to pay for the stamps to comply with the regulations and with the law.

There is no other product of the soil, except tobacco, in the United States that bears the burden of a direct tax, and we feel that we should be relieved from it.

Mr. HILL. The purpose of the Government is to get back to the original article and trace it all through its various processes of manufacture to prevent fraud on the revenue.

Mr. COOPER. Yes, sir.

Mr. HILL. In making that up into smoking tobacco it is not the purpose to tax the farmer, but the finished product, and in order to be sure that the manufacturer of smoking tobacco is not defrauding the revenue they compel him even to have the tax paid when it leaves the original grower's hands. You want to shove the process up one point, and let the original grower do what he pleases with the tobacco to start with, but you have no way of controlling the supply, which the manufacturer ultimately gets then, have you?

Mr. COOPER. No, sir.

Mr. HILL. You absolutely have to trust to his honesty. A man could buy your tobacco now, and when he buys it the tax has been paid. There is the difficulty. How will you get out of that difficulty? I do not think anybody would have any particular objection to relieving the primary tax at all and giving them the benefit of the primary market, but how will you control the matter to see that the Government is not defrauded? How is the Government to follow the article?

Mr. COOPER. Whenever tobacco is granulated or fine cut, then put your tax on it—that is, when it is changed from its original form. Whenever it has any foreign ingredient in it, then put your tax on it.

Mr. HILL. I do not think you quite catch the point. The man who goes through that process buys taxed tobacco.

Mr. COOPER. Oh, no, sir.

Mr. HILL. Does he not?

Mr. COOPER. No, sir; he pays the tax after he buys it.

Mr. HILL. It is taxed when it is sold to him?

Mr. COOPER. You pay it when you manufacture it. You buy your revenue stamp after it is put in the boxes. The farmer does not pay it.

Mr. HILL. No; but the man to whom the farmer sells it has to pay the tax?

Mr. COOPER. Yes.

The CHAIRMAN. Do you not lose two things in shoving the tax up one notch, as has been suggested? You lose one tax, and you lose——

Mr. HILL. You probably would not lose the tax on 80 per cent of it, because it is exported and you get none.

The CHAIRMAN. You lose one tax on what is now taxed tobacco, and also the Government's security for its revenue.

Mr. HILL. That is the very point that I make.

Mr. GAINES. I do not agree with either of you. If the chairman will bear with me for just a moment—this tobacco that we have before your eyes is all exported except about 10 per cent. If you let the growers stem or twist it and sell it to their neighbors, you keep that tobacco here at home and it would not be exported. The result is that it will not be so easy to buy it to export, and the price will be raised while in the producers' hands.

Suppose I sell that tobacco to Mr. Hill, and he would stem it or twist it. He would possibly buy a hogshead of it, and get tired of using it, and sell it to Dalzell & Co. Then Dalzell & Co. would then have to pay a tax on it when resold, and if you do not allow the farmers to do what I want to you to do, that would never get to the manufacturer at all. It is about all sent abroad—80 or 90 per cent. But if you change the law, it may come back to our own manufacturers in time, who will have to pay a tax of 6 cents when they manufacture it. Allow free trade in leaf tobacco and "any person" and all persons buy, sell, and so on, which includes the manufacturer, who would buy to manufacture and pays tax on his goods when made into the finished product.

Mr. METCALF. Would it not supplant, then, other tobacco in the American market?

Mr. GAINES. It would give the farmer a chance—liberty of action—to compete with the great giant trusts that now control the price of tobacco, crushing the grower.

Mr. METCALF. The farmer would develop a home market, and would it not supplant other tobaccos and decrease the revenue to that extent?

The machine-made tobacco would compete with handmade tobacco, which would be some competition and relief, although the machine-made might undersell.

Mr. GAINES. That is the only sort grown in that country. The farmer can not peddle the tobacco into nonproducing tobacco countries. He has to stay on his farm. If you allow him to barter it, it produces a home trade, keeps the people busy in a country where there is no money, practically (because these people are practically bankrupt now). In addition to that, it will give a competitor in the dark tobacco market with the man who is buying that tobacco to export. As it is, he gets it all. If you will let this stemming and twisting be done as we want it, we can sell it to Mr. Hill, for instance, and he can sell it to the manufacturer, and when he puts his hand on it and manufactures it he has to pay a tax of 6 cents per pound for the finished product.

The CHAIRMAN. Is there anything more, gentlemen?

Mr. COOPER. No, sir; except that I wish the committee to hear this petition:

We the tobacco growers and dealers of Kentucky and Tennessee, in convention assembled at Guthrie, this the 28th day of January, 1904, do hereby petition and most respectfully represent:

That in the midst of the vaunted prosperity said to be deluging the other parts of our blessed country, the tobacco-raising sections are in the very throes of calamity, the people hard up, farm laborers in want, nobody prospering, everything languishing.

That the effect of the revenue laws relating to tobacco has been to bring to the verge of ruin one of the richest countries God has made, destructively damaging to landlords and farmers, distressingly impoverishing to tenants and laborers, by placing it within the power of buyers and corporations to fix the price and combine to

control it; that no other country in the United States has been so oppressed, having its natural fertility and wealth-producing powers rendered nil; that no other product of the soil is thus taxed and singled out for trusts to prey upon; that no other people are ground to powder by permission of the law.

That the effect of the law is to destroy competition among buyers and limit the growers' market; that if the grower were permitted to stem and twist his product and sell it in any quantity anywhere, in any quantity to anybody, he could thus reach the consumer and there would result a wider market, competitive demand, and living prices.

That under the prevailing system the grower can only sell a small quantity in the hand; that all the people about him to whom he might sell are growers like himself, or nearly all, and therefore he has no one to whom he might sell; that the small quantity he might sell would not justify him going into nontobacco regions to find customers; that he therefore has no one else to sell his crop to except the combined agents; that there is no longer competition in buying, the leading tobacco markets of the world have been abandoned by the army of buyers and agents from abroad, from all the principal countries of Europe, who sat daily around the tobacco boards and bid against each other; that the auction rooms are dismantled and abandoned, and where activity and prosperity once surged is now desolation and emptiness; that a few buyers for corporations, all in combination, alone remain to fix the price and take as much or as little as they wish; that there is no one else to whom they may sell—no exemption, no rivalry—and the result is that prices rule barely above the starvation point.

That the revenue law is directly responsible for this by depriving the grower of the right to sell his product to consumers stemmed and twisted into a shape that can be handled and used and in amount that would be any considerable part of the country's product; that to take off the handcuffs and allow them to stem and twist and sell it without limitation will create competition and bring tobacco to its worth.

That it is demonstrable, at least in the tobacco regions that we represent, that this suggestion will not decrease the revenues; but even if it does, even if it cost millions, is the Government warranted in punishing its people for revenue? Is it fair and just to select us from among all other tillers of the soil for unmerited punishment through unjust taxation?

Therefore we earnestly petition and pray the Congress of the United States to so amend the revenue laws as to permit any person (farmer, merchant, or dealer) to sell leaf tobacco in the hand, leaf tobacco stemmed, leaf tobacco stemmed and twisted, not mixed with any foreign ingredient or flavoring, to the consumer or to the trade in any quantity free of any tax whatever.

F. G. EWING, *Chairman.*
R. E. COOPER.
F. W. DABNEY.
W. F. FLOWERS.
C. C. REYNOLDS.
J. W. DUNN.
C. P. WARFIELD.

Mr. COOPER. It would very greatly improve our condition if we could sell probably one-tenth, or one-fifth, or one-fourth of our tobacco to the home market. If we could get up the same board of buyers that we had under the old system, there would be competition, and the trusts would have to pay more for the tobacco that they bought. The trusts control the export part of our market now. You will force them, if you do what we ask, to pay more for what they export, and it would affect the revenue but very little. I believe in the course of time the people of this country will become accustomed to chewing tobacco in this shape [exhibiting sample]. At present it is put up in glucose and licorice and molasses, and a number of articles are put in it. I have been in the manufacturing of it a little bit myself.

Mr. HILL. Is that pure [indicating one of the samples of tobacco]? Is there nothing in it except tobacco?

Mr. COOPER. No, sir; I took a chew of that myself.

Mr. BARKER [indicating one of the samples]. That was put up for my personal use. There is a little peach brandy in it. It was put up for my own consumption. [Laughter.]

Mr. COOPER. You see, gentlemen, to give us this outlet would make us more independent. At present, when Mr. Smith says to me, "If you can not accept this price, why, just keep your tobacco," then there is nothing for me to do. If you do what we ask, then I could go and box that tobacco and get something for it through other agents down through the lower countries, especially through the South, where we have cheap labor, and largely colored labor, that can not buy their chewing tobacco at from 40 to 80 cents a pound. We would be glad to sell that tobacco at from 15 to 20 cents a pound, and that would be a pure article. They will chew natural tobacco then, and I believe that physicians will bear me out in the statement that the injury, if there be any, from tobacco is from the ingredients that are put into it and not from the tobacco itself.

If you will give us an opportunity we are going to make the fight with the American Tobacco Company. If you will only unfetter our hands we will make the fight ourselves, and we believe that it will be a very great benefit to us.

While 80 to 90 per cent of this dark tobacco is exported, if we could put in 10 per cent of it at home it would greatly relieve the present conditions.

If you could make a trip through southwestern Kentucky and Tennessee you would realize the horrible condition of the neighborhood and the tenants, made up of white labor and colored labor.

Mr. GAINES. Can they pay their tobacco land rent this year?

Mr. COOPER. No, sir. There are numbers and numbers of cases where a man's lot of tobacco does not pay any rent at all.

Mr. GAINES. Mr. Stanley's secretary, Mr. Hall, said the other day that there was "not a tobacco tenant on his farm of several hundred acres that could pay his tobacco rent this year; not one."

The CHAIRMAN. We will have to stop the hearing at this point, as the House is in session.

Mr. W. W. KITCHIN. Can we meet this afternoon?

Mr. GAINES. There are four or five other witnesses in this matter who have come a long ways to be heard.

The CHAIRMAN. Very well; we will meet again at 1 o'clock.

Mr. JAMES. I have some petitions here from the farmers of my district which I would like to embody in the hearing.

The CHAIRMAN. Very well; they may be made a part of the hearing. (See p. 64.)

Thereupon (at 12.10 o'clock p. m.) the committee took a recess until 1 o'clock p. m.

AFTER RECESS.

The subcommittee met at 1 o'clock, Hon. John Dalzell in the chair.

STATEMENT OF MR. JOHN S. CUNNINGHAM, OF NORTH CAROLINA, PRESIDENT TOBACCO GROWERS' ASSOCIATION OF NORTH CAROLINA.

The CHAIRMAN. Now, Colonel, we are ready to hear you.

Mr. CUNNINGHAM. Mr. Chairman and gentlemen of the Ways and Means Committee, I am very glad to have the opportunity of saying a few words to you gentlemen. I am from the Hon. W. W. Kitchin's district, and I have the honor to be the president of the tobacco

growers' association of my State. The speech of Mr. Gaines has covered the ground very fully as far as many facts are concerned in regard to the bill he introduced for the relief of the tobacco growers.

My chief object, gentlemen, in appearing before the committee is to tell you, Mr. Chairman and gentlemen, the condition that existed in the tobacco-growing States prior to the tax and prior to these numerous bills which have been passed by Congress, and I want to say this to you, gentlemen, that as the matter now stands in the tobacco-growing States, not only of the South but of the West and in some of the States that grow tobacco in the North, there is absolutely no competition. Fifteen or twenty years ago—you take, for instance, the Danville market, in Mr. Swanson's district—and they had scores of independent buyers, leaf dealers, but under the existing laws at the present time they have only a few buyers on the Danville market, a few buyers on the Lynchburg, and a few buyers on the Durham, and Winston, and Norfolk, and other markets of my State, and I understand that the same condition exists in other tobacco States.

Mr. Chairman, some years ago in the city of Danville and in the city of Lynchburg there were from 30 to 40 tobacco factories at each one of those cities, and there were tobacco factories throughout the little towns and throughout the country in all the districts; and you take my county—the county of Person—one of the best tobacco-growing counties in the United States, and I had the honor to take the gold medal and the first prize for the best bright tobacco grown, at the exposition in 1900. Some years ago we had a great many factories in that county and throughout the county towns and throughout the country districts. But you take the counties that adjoin my county, as well as my own, and you take the county of Halifax, Va., one of the largest bright-tobacco counties in the South, and I do not think they have a single bright-tobacco factory in that county. They have none in Danville and none in Pittsylvania County, and the object of the Gaines bill, as far as I can see, is to bring about a competition—is to put the country in such a condition that the growers of tobacco, that the American farm laborers, can make a living.

We hear and read so much about the American farm laborer, "the man with the hoe," and I can say to you in spirit and in truth, gentlemen, that there is no section of this Union that is more loyal to the Union than Virginia and North Carolina and the tobacco States of the South; and I want to say to you gentlemen that the lands have gone down so low that nobody wants to buy them; that the negroes are leaving our country because the wages which they receive are insufficient to support them.

Mr. GAINES. Are the negroes tobacco growers?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. As tenants, or how?

Mr. CUNNINGHAM. They are tenants, and a good many of them have their own houses and farm themselves. A great many are hired, a great many are croppers, and a great many are tenants.

Mr. GAINES. Are they quitting this tobacco raising?

Mr. CUNNINGHAM. Thousands of them.

Mr. GAINES. Why so?

Mr. CUNNINGHAM. Because they do not make enough out of it.

Mr. GAINES. I think that is the case down in Tennessee and Kentucky. I am so informed by many growers.

Mr. STANLEY. I would like to have you explain to the committee what you mean by "hired labor" and "croppers." You spoke of the tenant and the hired laborer and the cropper, and they have been spoken of here by others, and I would like you to explain to the committee what you mean by each one of those terms.

Mr. CUNNINGHAM. The hired laborer,——

Mr. METCALF. The cropper is the one who rents on shares?

Mr. W. W. KITCHIN. And the tenant is one who gets three-quarters of the crop instead of a half. In the case of the cropper——

Mr. STANLEY. What we call up North farming on shares.

Mr. CUNNINGHAM. That is what we call a cropper.

Mr. W. W. KITCHIN. Farming on shares?

Mr. GAINES. You say that the negroes are leaving the tobacco farm?

Mr. CUNNINGHAM. Yes, sir; they are going where they can make more money. They are going to the coal mines and places where their labor is worth more.

Mr. GAINES. Lots of white people are croppers, and they are quitting too?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. That is exactly the case in my country.

Mr. W. W. KITCHIN. Is that your personal experience as well as your observation?

Mr. CUNNINGHAM. Yes, sir.

Mr. W. W. KITCHIN. I believe that Mr. Cunningham has the reputation of being the largest bright-tobacco grower in the country, certainly in my part of the country—in my part of the State.

Mr. CUNNINGHAM. Now, as to hired labor, as I understand it, gentlemen, in Virginia the man who owns the land pays the man who works it so much wages, so much money, usually, and he gives him so many bushels of corn and so many bushels of wheat, and as many pounds of meat, and gives him a pasture for his cows and hogs. That is usually the rule where we hire—that is, we have got to furnish everything—the land, the teams, and the tools—and they take out what is called one-fourth, and go halves, and then the landlord gets five-eighths and the tenant gets three-eighths. Where the tenant furnishes everything except a fourth of the fertilizer the tenant gets six-eighths and the owner of the land gets two-eighths. Mr. Swanson, there, is a farmer, and he knows those things are true in Pittsylvania County. In fact, I believe all the Congressmen down in my section of the State are farmers. They always say so in their campaigns. [Laughter.]

Mr. STANLEY. What are the changes in condition with reference to the tobacco crop which is produced; these changes that you say are now going on? What is the change from fifteen years ago?

Mr. CUNNINGHAM. I think, Mr. Chairman and gentlemen, that the change is owing to the fact that the competition which we had some years ago has been absolutely destroyed. You take this Rigi contract from Italy and Austria and France. They send a few men over here and price the tobacco, and if the tobacco costs 6 cents to grow it, they price it at 7, and you can not get any more, and if you only get enough to pay the fertilizer bill and your bill for labor and the tenant's share thrown in, you can not get any more, and you are absolutely in a helpless condition.

You take it a number of years ago and we had a great many buyers from England who came to this country to buy the tobacco grown by

the tobacco farmers of this country. What is the condition to-day? The great factories of England have combined in what is known as the British Imperial Tobacco Company, and those gentlemen, as you know, are not going to pay any more for their tobacco than they are compelled to. That reminds me of the story of a man that went in with a load of tobacco to sell, and when they told him that the tobacco would not pay the ——— they said, "When you come back a week from now, you bring us a rooster and pay up this quarter's charges." So in a week Mr. Smith came back, and he had a basket on his arm, and in the basket he had two roosters. So the man said to him, "Why, Mr. Smith, how is this? You don't owe me but one rooster." "Oh no," says Smith, "but I brought you another load of tobacco."

The CHAIRMAN. How do you account for this condition of things?

Mr. CUNNINGHAM. I account for it by the fact of this tobacco tax, as has already been stated to you here so clearly by Mr. Gaines, and of these rulings here made by the Department requiring you to put up so many packages, so many ounces to a box and so many ounces to a package and a bale, and a box of snuff, and the farmers of my country do not know anything about it. I have been in the business all my life and I do not know anything about it, and I do not understand it after having been in the business all that time and having read these bills providing for so much bond and so much tax.

If the farmers were permitted under this bill to manufacture their tobacco free of tax they could then take their own tobacco and twist and stem it and selling it without paying this tax, make not only some profit on the tobacco grown on the farm, but also some profit out of twisting this tobacco. It would at least put the tobacco grower in the southern country in a position to make something; and I want to say to you gentlemen—and these Members of Congress from the section in which I live will bear me out in it—that the lands have gone down; that the negroes are leaving the country; that the white people are leaving the country.

Why, the idea of a sensible young white man staying in my country and working on the farm is ridiculous. You do not find one who does it. They are all leaving for the cities and towns, and the negroes of the country are going to the railroads and the coal mines and the cities and towns; and such a thing as immigration coming to our country is unheard of. And when you gentlemen talk about developing Alaska, and the Philippines and Porto Rico, and all these far-off countries, we ask you gentlemen to come and look at this great country that stretches from the Potomac to the Rio Grande, and help us to develop that. There is no tax on the grain fields of the West, there is no tax on corn, and no tax on wheat, and no tax on cotton.

The CHAIRMAN. You think there ought to be no tax on tobacco?

Mr. CUNNINGHAM. I absolutely think so, sir. I think it would be the greatest thing that could happen to our country if it should be taken off, and if Congress does not think that they could give up this——

Mr. W. W. KITCHIN. If you will permit an interruption, the national platform of the Republican party in 1884, I think it was, denounced this tax on tobacco, and said that it was a burden on agriculture, and that is the unanimous opinion.

The CHAIRMAN. Does it have any influence on the land?

Mr. CUNNINGHAM. You can not use it for anything else.

The CHAIRMAN. You can not use it for a diversified crop?

Mr. CUNNINGHAM. No, sir; not the tobacco land.

Mr. GAINES. The reason why foreign countries are not allowing people to raise tobacco is that it ruins the productiveness of the soil. It is a drastic growth, and it has gotten so that it is raised and raised, and you must fertilize regularly, which absorbs your profits.

The CHAIRMAN. This tax and these regulations of which you complain are how old? How long have they been in existence?

Mr. CUNNINGHAM. The tobacco tax, as you know, was put on during the war, to raise revenue for the Government during the war.

Mr. GAINES. That was in 1862. It was a war measure, and Mr. Morrill said it would be temporary.

The CHAIRMAN. These regulations you speak of—I rather got the idea from you that they were modern.

Mr. CUNNINGHAM. I think in 1894 there was a bill passed here in regard to stemming and twisting tobacco. I think it was in 1894.

The CHAIRMAN. Go on.

Mr. GAINES. I think I have here the first provision that ever was suggested in the House on the subject. It was March 28, 1862, that this parent clause came into the House, and by order of the committee was stricken out. It read, "On tobacco, leaf or stem, unmanufactured, 3 cents, but the payment of this duty shall not exempt tobacco from a further duty when manufactured." This was stricken out by order of the committee and the tax transferred to manufactured tobacco in the next clause. (Globe, p. 1439, 2d sess. 37th Cong.)

The CHAIRMAN. Proceed, Colonel Cunningham.

Mr. CUNNINGHAM. As I stated a few minutes ago, Mr. Chairman, competition has been absolutely destroyed in the tobacco business. Of course those foreign nations, the continental nations of Europe, want to buy our tobacco just as cheap as they can, and they come here and buy the farmers' tobacco below the cost of production and take it to Austria and France and Italy and Spain, and those countries are making millions and millions of dollars a year off the manufacture of this raw material, and the tobacco producers of the United States are making nothing; and their lands have gone down, their labor is leaving the country, and a great many of them in districts where we have the public school system are unable to pay their taxes and unable to provide their children with suitable clothes to go to school and to church.

I wish that this committee could come down to my country in that tobacco section. I would take pleasure in entertaining this committee at my house. We are living in that old section there of North Carolina where my grandfather founded, in 1795, when General Washington was first President of the United States. My grandfather, a Scotch-Irishman, settled in that country then and we have lived there ever since, and I will tell you I would like to see the condition of affairs existing in this country, by the help and through the help of the Congress of the United States, that would aid and assist to build up our section.

I do not mean any reflection upon old Virginia, because she is a grand old State, the land of States and of statesmen. There is not a gentleman here, Mr. Chairman, who is not acquainted with the history of Virginia. But what I refer to now is the agricultural condition

which existed some years ago and which exists at the present time. You take from Richmond to Lynchburg, and from the city of Washington to Richmond, and from Richmond to Norfolk, and from Danville to Richmond, and travel that section, gentlemen, and that entire section is almost absolutely unsettled and uncultivated. You can not get immigration to come to a country where the negro race and the poor white people are unable to make a humble support, and my object in appealing to you, gentlemen, to-day is in the interest of humanity, for humanity's sake.

Mr. Gaines has given you the facts and figures in this case regarding these taxes levied by the Government; he has presented to you the laws passed by the Congress of the United States, and I deem it unnecessary to go over that ground, but I want to ask you, gentlemen, if this bill is not a satisfactory bill, after you know the facts in this case, the depressed conditions of the tobacco farmers, of the American farm laborer, and the tobacco States, I believe that you have it in your hearts, and you have got the brains to do it, and the understanding sufficient to do it, to frame a bill and pass a bill that will benefit and help the tobacco farmers of the tobacco States.

Mr. GAINES. Now, will you pardon me; will you tell me how you would benefit the farmer; in other words, how would you remove the evil about which you so well talk? How would you do it? You have read this bill and that bill, and——

Mr. CUNNINGHAM. I would repeal it.

Mr. GAINES. How would that operate as to the revenues?

Mr. CUNNINGHAM. I do not think it would hurt the revenue a great deal, but I think it would help the tobacco farmers, because it would bring about a competition that does not exist now.

Mr. GAINES. In other words, the tobacco grower would stem and twist his tobacco, the pure tobacco or natural leaf, which is not doctored, there is no licorice or anything in it?

Mr. CUNNINGHAM. No, sir.

Mr. GAINES. We do not ask Congress to let the farmer put the licorice or any sweetening into it. Is not that so, Mr. Warfield? Then the grower wants his agent to sell and deliver the growers' leaf. The grower must deliver under the law?

Mr. WARFIELD. Yes, sir.

Mr. GAINES. Now, the tobacco manufacturer puts all this sweetening in it—licorice, etc.—and the tobacco stemmed and twisted by the grower would be pure tobacco, so that you could very easily distinguish one from the other. One is pure tobacco; the other is "doctored." Now, if you would pass either of these bills it would give the farmer a chance to compete with the trusts that have broken up all this competition?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. How large is the average farm?

Mr. CUNNINGHAM. About 5 or 10 acres; about 25,000 to 50,000 tobacco growers.

Mr. W. W. KITCHIN. That is the average amount of tobacco cultivated.

Mr. STANLEY. How much can the average man cultivate?

Mr. CUNNINGHAM. About 3 acres.

Mr. STANLEY. When you say one man cultivates that much, do you mean that he cultivates it by himself in your country, or do his wife and children help him?

Mr. CUNNINGHAM. His wife and children help him.

Mr. STANLEY. It is the custom in your country, as well as in my own, when a man pulls the plants out of the bed and in planting and hoeing them for the women to do as much work as the men?

Mr. CUNNINGHAM. Yes, sir.

Mr. STANLEY. Now, he can raise about 3 acres?

Mr. CUNNINGHAM. Yes, sir.

Mr. STANLEY. On that 3 acres of tobacco how many days in the month in a year does he work on the tobacco? Is it a year's crop, like it is with us on other crops? It is a year's work?

Mr. CUNNINGHAM. Yes, sir.

Mr. STANLEY. Hard work every day?

Mr. CUNNINGHAM. Yes, sir.

Mr. STANLEY. And two-thirds of the time his wife and children work with him?

Mr. CUNNINGHAM. Yes, sir; two-thirds of the time in cultivating the crop his wife and children help him.

Mr. STANLEY. How much will he get at the end of a year—how much money at the end of a year's time, on his share of that crop?

Mr. CUNNINGHAM. That depends on whether the man is hired, or is a tenant or a cropper.

Mr. STANLEY. If he were a cropper how much would he get?

Mr. CUNNINGHAM. If he was a cropper and furnished everything he would get three-fourths. If he did not furnish everything he would get about three-eighths.

Mr. STANLEY. That is, a man working on three-eighths of the crop, how much money would he get?

Mr. CUNNINGHAM. How much money would he get out of the crop after he sold it?

Mr. STANLEY. Yes.

Mr. CUNNINGHAM. That would be pretty hard to say.

Mr. STANLEY. How much does it bring a pound?

Mr. CUNNINGHAM. On the Danville market for six to eight years it averaged about 6.6 cents.

Mr. STANLEY. How much is it bringing now?

Mr. CUNNINGHAM. Last fall 4 cents.

Mr. STANLEY. How many pounds to the acre?

Mr. CUNNINGHAM. We usually raise about, I would say, 600 pounds.

Mr. STANLEY. That is 1,800 pounds on 3 acres. You get three-eighths of 1,800 pounds at 6 cents?

Mr. CUNNINGHAM. Yes, sir; 6½ cents; that is $108.

Mr. STANLEY. He would get three-eighths of $108; about $40?

Mr. CUNNINGHAM. Yes, sir.

The CHAIRMAN. This land on which you grow cotton will grow other crops, will it not?

Mr. CUNNINGHAM. Yes, sir. It will not produce other crops as well. Tobacco is hurtful to the soil, and when you raise it much, the land will not produce much else very well. Of course in the lowlands we have on the rivers and creeks we have land that produces corn very well, and then, of course, sometimes we will have a freshet that destroys that crop.

Mr. STANLEY. The agricultural report will show that. You take a tobacco stem and burn it and see the saltpeter burn, and you have to restore those ingredients which the tobacco takes from the soil by powerful fertilizers.

Mr. GAINES. My understanding of this is that as it is the farmer is compelled to sell to practically one party, the tobacco trust?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. The tobacco trust is cooperating with the foreign tobacco trust, which represents not only the Rigi contract of these monopolistic organizations, but also represents the manufacturers of cigarettes and tobacco here at home. Now, if you give the farmer a chance to stem and twist his own tobacco, you compete not only with the man who comes to buy that up, with the tobacco trust, who buys it for the purpose o. making it into cigars and cigarettes at home here. As it is, the tobacco grower is compelled to sell to one or the other or not sell at all. Is not that true?

Mr. CUNNINGHAM. I think so; yes, sir.

Mr. GAINES. Have not these monopolistic concerns done away with these warehouses and factories?

Mr. CUNNINGHAM. They have done away with the factories almost entirely.

Mr. GAINES. And with the warehouses?

Mr. CUNNINGHAM. The warehouses do not amount to anything.

Mr. GAINES. Two-thirds of that that we send to Europe is manufactured in this country?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. Now, if you let the farmer stem and twist it, he will sell it here in that condition?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. And then, whether in a large or small amount, it can be sold to the home manufacturers?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. Yes, sir; and when it goes to that manufacturer, then he has to pay a tax to manufacture it, does he not?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. So that the Government would get the benefit of getting some revenue from this tobacco if the change is made we desire?

Mr. CUNNINGHAM. Yes, sir.

Mr. GAINES. And as it is, the Government gets none?

Mr. CUNNINGHAM. Yes, sir.

Mr. SHERLEY, of Kentucky. Would it be satisfactory to the tobacco growers if the tax was removed on simple-twisted tobacco, and removed not only when the tobacco was twisted by the grower, but also by the manufacturer?

Mr. WARFIELD. You would not want the manufacturers to twist this tobacco?

Mr. CUNNINGHAM. Yes, sir.

Mr. STANLEY. In all the section which I represent, which is the entire dark-tobacco section—I do not mean as a Member of Congress, but I mean Mr. Gaines's section, the dark-tobacco section—we would be satisfied with much less than that. They will be entirely satisfied if you take the tax off of leaf, and take the tax off of twist when you raise the tobacco.

Mr. GAINES. That is my bill.

Mr. METCALF. You refer to the North Carolina and Tennessee tobacco for smoking or chewing purposes?

Mr. CUNNINGHAM. Yes, sir.

Mr. METCALF. Any other kind? What other States raise that kind of tobacco?

Mr. CUNNINGHAM. North Carolina, Virginia, South Carolina, and some of it in some parts of Tennessee and some parts of Kentucky.

Mr. GAINES. Wisconsin raises it—about 70,000,000 pounds last year.

Mr. CUNNINGHAM. Wisconsin?

Mr. GAINES. And there is a big factory up in Pennsylvania?

Mr. CUNNINGHAM. Yes, sir.

Mr. SHERLEY, of Kentucky. The point I wanted to ask you about, as a practical tobacco man, was this, Whether the farmers would be able to compete and would be satisfied with the conditions if the tax were taken off of simply twisted tobacco, not simply that the farmer gets it off, but to let it apply equally to all men, and have simply no tax for the twisting or tobacco?

Mr. W. W. KITCHIN. And unmedicated?

The CHAIRMAN. No tax on twisted tobacco?

Mr. SHERLEY, of Kentucky. Yes; as I understand it this bill applies simply to the grower.

Mr. CUNNINGHAM. Yes, sir.

Mr. SHERLEY, of Kentucky. Now, what I want to know is, if you think it would give any relief if I bought the tobacco from you as a farmer and twisted it and sold it in that community, manufacturing it to the extent that I am twisting it, but not to the extent that I am doctoring it?

Mr. CUNNINGHAM. I have not thought of it sufficiently to give you a definite answer. I would not like to make a statement on that unless I was sure that I was correct about it. I will think about it, and tell you what I think of it. You know I am a farmer, and I do not talk much, and you all must excuse me. I am very much obliged to all the gentlemen here for the attention they have shown me, but when anybody talks while I am talking it confuses me, and I am not a lawyer and it always frightens me very much when I get up to speak.

The CHAIRMAN. We have been very much interested, Colonel.

Mr. CUNNINGHAM. I want to say just a word more and I am through. Mr. Chairman, you hear a great deal of talk in this country about the trusts and the Rigi contract and the British contract. Now, every gentleman on this committee and in this room knows that when bills are passed by Congress to help the trust, or the Rigi contract, or the British Imperial Tobacco Company of England that they are going to take every advantage they can think of to make money. They incorporate them and have charters and they pay their taxes to the Government, and if they can make millions and hundreds of millions out of it and leave the tobacco farmers of the tobacco States in an impoverished condition it is their lookout. Mr. Chairman, the tobacco companies of this country and England are not the trustees and guardians of the tobacco farmers; but I will tell you the Congress is—the members of the Senate and the Members of the House here are the trustees and the guardians of the people of this country.

I remember some years ago that this insurance company, known as the Southeastern Association, put up the rate in North Carolina 1½ per cent, and in Virginia the highest rate was 1 per cent. I went to Richmond to see the agent of the Southeastern Association about it, and I told him that it was oppressive to the people of North Carolina. Well, he said all he had to say was that they had fixed that rate

and it must stand. Well, now, I told him it was oppressive to our people and I considered it an injustice to our people. "Now," I says, of property right across the line in Virginia, I am going to call the attention of the next legislature of our State to this matter." "Well," he said, "yes; you would stand a fine showing to do anything before the legislature. We have $250,000,000 of capital, and we will send a great crowd down there to run it, and what would you amount to with the Southeastern Association with its $250,000,000 and all of our men who would come down there?" "Well," I says "I don't know whether I would amount to anything or not, but I am going to try it."

And when the legislature met the next winter I got up the figures and I went down before the committee of the legislature, and the legislature passed a bill unanimously in the house and unanimously in the senate that they must cut their rate down in North Carolina 50 per cent.

Now, we come and tell you gentlemen the bad condition of the tobacco farmers in the tobacco States. We do not come here and ask the trusts, we do not ask the gentlemen who represent the Rigi contract, we do not go to England and ask the King and the Parliament as to what they have got to say about it, because they do not want a change if they are making money out of it. They are not looking after us, but you gentlemen are looking after us.

The Spanish war showed that this is one great country. The Spanish war showed that the people of the South were as loyal to the flag as they are in Massachusetts or California or anywhere else. So I feel when I come to speak to you gentlemen, who are from every part of this country—North, East, South, and West—it is just like we all of us would sing that good old song, "Home, sweet home," and we would all join in; and so I am speaking to you gentlemen in the interest of humanity, for humanity's sake.

Mr. Gaines has presented the figures to you, and the facts, and the bill passed by Congress, and I do not propose to go over that ground. Now, one thing more, Mr. Chairman, and, if you please, I am through. It will be urged by some that tobacco is a luxury; that it does not come under the heading of taxation, as wheat or corn, which are necessities. I grant you that tobacco is a luxury, but why should the tobacco farmer raise a luxury for others and not receive a reasonable support for himself and return for his labor? Our lands are not suited to the raising of grain, as are those of the West, or the raising of cotton, as the lands are in the South. They were created by God Almighty for tobacco, and they are fit for little else, and we of this section produce almost all the tobacco.

Why should the tobacco farmers be forced to sell their product to foreign countries for 4 cents a pound, which the foreign countries manufacture and sell for 50 cents a pound, or whatever price they choose? These combines and foreign states send their representatives to our tobacco markets, where they set the price of tobacco, oftentimes below the cost of production, and pay what they agree among themselves, regardless of the producer.

And now, Mr. Chairman and gentlemen, I am through. There are many other things which I could say along this line, but I do not propose to impose upon the patience of you gentlemen.

Mr. GAINES. Tobacco using is a luxury, but tobacco raising is not a luxury, is it?

Mr. CUNNINGHAM. No, sir.

STATEMENT OF CHARLES H. FORT, PRESIDENT OF THE TOBACCO GROWERS' ASSOCIATION OF THE UNITED STATES.

Mr. FORT. Mr. Chairman and gentlemen of the committee, I am glad to be before you. I want to say that I am no speaker. I am an humble farmer. I was raised on the farm and have made tobacco all my life. I know nothing else, and I know nothing about the statistics and facts these gentlemen are getting up here, but I do know the hardships that have been brought on our people.

Mr. STANLEY. I just want to get you to say to this committee, because you raise the same tobacco as there is in my district, the amount of work that is necessary to produce a crop of tobacco; the amount that one ordinary tenant, working with his family, would produce to the acre, the work necessary to do it, and the price that tobacco would bring under present conditions. Just take your time and state that to the committee.

Mr. GAINES. In the course of your remarks as you go along, just as you please.

Mr. FORT. Thank you, gentlemen. I do not know anything but to raise tobacco. We had one of the biggest meetings the other day that we ever had in our country, and we worked all day in getting up the statistics of what it cost our farmers in Robinson County to make a pound of tobacco, and we decided that it cost us 6 cents a pound. Before these trusts came in there we had the advantage of the balance of the counties of this district, and we have sold tobacco as high as 20 cents a pound. I have one neighbor close to me, and this Regie contractor offered him a price one afternoon, and I telephoned him and tried to get him to sell his crop of tobacco, and he said, "I can not do it; I have to consult my tenants and hired hands and men who raise tobacco on shares." In our county we work mostly colored labor, and we give them half of the tobacco and corn they raise. We furnish all the land and all the stock and tools and we furnish them a house to live in and furnish them all the fertilizer and then give them half of what they make.

Well, now, this agent came along and offered this gentleman a price for his tobacco, and he could not take it until the next morning. Next morning he went to close out the trade with this agent, and the agent would not take it, and he knocked him down $100. Of course he could not take that until he had consulted again with his people, and when he went back the agent knocked him down again; and in the next three weeks he knocked him down $250. We have our hands tied down there and we can not do a thing.

Mr. GAINES. Who does this knocking?

Mr. FORT. The "Regie" contractors.

Mr. STANLEY. Tell this committee how many acres of tobacco land a man can cultivate.

Mr. FORT. Three acres is, in our country, a good crop for one hand.

Mr. STANLEY. Just describe it like you see it on your place.

Mr. FORT. We have croppers. I do not work anything but negroes on my place, and they have women and children, and they all work, and manage to work about three acres to the hand—that is, the man. Now, you may not know it, but tobacco is the most slavish crop—and the dark tobacco is the worst—in the United States, without exception. We have to work fifteen months in a year on a crop of tobacco.

I have my last year's crop of tobacco in the barn now, hung up, just like that leaf that you have there, and we have to work from sunup until sundown, fifteen hours a day.

Mr. GAINES. Do you have to worm your tobacco very much?

Mr. FORT. Sometimes the worms are so bad that you can not cultivate an acre, if the worms get as bad as I have seen them. The result is that the crop is eaten up.

My brother and I own our farm in partnership, and he was down in Mississippi several years ago working on a levee contract, and I was staying on the farm, and I sent some tobacco down there to him, and if this tax had been removed from this tobacco we could have sold our entire crop for 15 to 20 cents a pound, and as it was we sold it for 5 cents.

Mr. GAINES. What do you mean by "twist?"

Mr. FORT. Without any medication at all.

Mr. GAINES. The way the manufacturers sell it now, they put some sort of medication in it?

Mr. FORT. Yes, sir. I will explain to you why we can handle it and why we want to be able to handle it and make it into a twist and stem it ourselves. When the rainy days come the tobacco leaf is moist and pliant, and you can take it and twist it or roll it or do anything that you please with it—make cigars out of it, or anything—and you can take the stem out of it and twist it, in this way [indicating], or you can do anything you like with it at all.

I would like to answer the question of the gentleman over there. We are not fighting any trust. We want competition. We need competition. This thing has gone on down in our country until we have only one or two buyers there, and they actually have the territory prescribed and limited and laid off until there is one of my neighbors who had a barn full of tobacco on one side of the road and another barn full of tobacco on the other side, and a buyer came there and he offered him this tobacco on one side of the road and he bought that, and then he offered him the tobacco in the barn on the other side of the road and the buyer said, "I can not buy that tobacco over there; it is not in my territory." And that man lost $2 on all the tobacco in that barn on the other side, because he could not sell to this buyer his whole crop, because it was not in his territory.

I think when you see these injustices that are being worked on us down there there will not be any doubt in your minds.

Mr. GAINES. Who did this man represent?

Mr. FORT. The Regie Company.

Mr. GAINES. Have they any competitors down there?

Mr. FORT. No, sir; and I want to state also that this man who was representing the Regie contractor was a personal friend of mine, and he told me: "There is a whole world of tobacco in Robinson County that we can not use." The result is that there is no competition and no chance to sell that, and there is no chance for this class of laborers and negroes, who are dependent on this crop for a living, and I do not know what we are going to do.

Mr. STANLEY. Now, you say a man will raise 3 acres of tobacco?

Mr. FORT. Yes, sir.

Mr. STANLEY. And Robinson County is the best tobacco county that you have?

Mr. FORT. Yes, sir.

Mr. STANLEY. Will it bring over 3½ to 4 cents a pound?

Mr. FORT. Not this year.

Mr. STANLEY. At 3 cents a pound, how many pounds of tobacco will be raised to the acre, on the average?

Mr. FORT. I have an estimate of the average for Robinson County, which is 500 pounds per acre.

Mr. STANLEY. That is 3 cents a pound and 500 pounds to the acre, to be cut half in two?

Mr. FORT. Yes, sir.

The CHAIRMAN. Suppose you tell us, before you stop, your idea as to how this Gaines bill is going to relieve this difficulty which you complain of.

Mr. FORT. That is a conjecture. I want to be honest and sincere with this committee. I try to be honest. I believe that if this tax is taken off it will open up competition and we can sell our tobacco all over the Southern States, and that will cost these manufacturers and other men about 2 or 3 or maybe 5 cents a pound better for the tobacco, and we can stay at home and get a price for it on which we can live.

The CHAIRMAN. Why can you not sell it all through the Southern States now?

Mr. FORT. I am glad that you asked that question. I have a friend there who has three years' crop of tobacco now on hand, and unless he goes along with that tobacco he can not sell it, and as the law is now he can not sell it. But if this tax is taken off he can send his tobacco——

Mr. GAINES. The regulations prohibit the owner from going along and taking his own hand——

Mr. SWANSON, of Virginia. If the tobacco is in the limp state and is put in a wagon and hauled over the country it soon gets full of dust and will be destroyed. He pays the tax of 6 cents——

The CHAIRMAN. He does not pay the tax of 6 cents until he comes to sell it.

Mr. COOPER. I had a man ship a crop of tobacco to my warehouse, and he was offered for it 6 cents a pound. He said, "I am going to take this tobacco to Texas and sell it myself." He had a right to do it. He said, "I will ship this to Houston, Tex.," and he said, "I can get 24 or 25 cents a pound for it."

He went there and began peddling that tobacco through the country, and the expense of handling four or five hogsheads of tobacco—that was about the quantity—was so great that he could not do it and come out even.

Mr. GAINES. You know that of your own personal knowledge?

Mr. R. E. COOPER. No, sir.

The CHAIRMAN. I would like to get some light on this subject. I have heard a great deal of the desperate condition in which the tobacco farmer is, and all that sort of thing, and I am prepared to admit that, but I have not yet been able to see how the provisions of this bill are going to reach his condition and do him a bit of good.

Mr. FORT. I am not any lawyer, and I do not know that I can explain that.

The CHAIRMAN. I am not expressing any opinion, except that I would like to have light. I want information.

Mr. STANLEY. Just tell Mr. Dalzell where you can sell this twisted tobacco, if it was a commodity that you could sell, now. Tell him what demand you have right over the line in the cotton fields below you.

Mr. FORT. We have a demand all over the Southern States.

Mr. WILLIAMS, of Mississippi. There is no tobacco raised in my country, and we would be very glad to buy this natural twist that is raised on the farm to supply our people with. I understand you to say that a man can come along with it and sell it now, but I know that it is not bought that way. I know that instead of that they buy the manufactured plug. You know the darkies all use tobacco, and a regular allowance on a cotton plantation is four pounds of meat and a peck of meal and a pound of tobacco. The tobacco is as much a part of the ration as the meal or the meat.

Mr. FORT. The gentleman asked a question. He wanted to know, if the tax was reduced to 3 cents a pound, if it would benefit the farmers. It would not benefit the class of people that I want to help a bit in the world. This tax, if taken off, would benefit the poor people and the negroes who are dependent. We can not raise corn and wheat or hay, and the negroes are dependent on the tobacco alone. It is a tobacco country, and they are bound to raise it; and now the negroes are going to work on the railroads and in the coal mines and that sort of work, and they are shutting down now, and we are in a depressed condition; and we come to you and ask for some assistance and help.

Mr. METCALF. Pardon me, just there.

Mr. FORT. Yes, sir.

Mr. METCALF. Would you not experience exactly the same difficulty if this tax were taken off tobacco in selling it in this case just cited by Mr. Warfield? Would you not have to peddle it out to the retailers?

Mr. FORT. We could sell it. A man can not go along and sell his own crop. He has got to attend to his other business. But allow me——

Mr. STANLEY. The law as it now exists is the same thing as though you were to give a farmer the right to plead his own case in court.

Mr. METCALF. Can he not take out a license and pay the tax?

Mr. STANLEY. It would not justify his doing it.

Mr. GAINES. The farmer would have to furnish his own horse and his own stock and his own wagon, raise his own tobacco and put it in his own wagon, and get on the wagon himself and go all over the country and sell it himself from his own wagon, whereas the tobacco raiser has maybe to go 100 miles or 50 miles to get into a place where he could sell it, because in his own country everybody around him raises tobacco and he could not sell it to anybody there.

The CHAIRMAN. Let us hear Mr. Fort.

Mr. FORT. This does not interfere with me at all. I want to answer that question about the tax. I do not know whether you gentlemen know it or not, but in our country we have an ignorant class of laborers who know nothing except what they learn from us. We white people teach them all they know and take care of them. I have a negro on my place who has never known anything else in his life. His mother was my black mammy. I went on his bond for a thousand dollars for shooting a negro once, and he came clear. [Laughter.] These negroes are afraid of the revenue law and they are afraid of the Federal laws. They know that they have no way of getting help if *they get* away from their own people.

They are afraid that they will be sent away off out of the country where there are no white people to help them, and they are confused and ignorant about these Government laws; and I am confused about it, and they are afraid that they will snap them up and give us trouble.

Mr. BARKER. Mr. Chairman, I am afraid of those laws, too. I have understood that putting a little peach brandy in a twist of tobacco is against the law, and I have a twist of tobacco here that I put a little peach brandy in to use myself [producing a twist of tobacco from his coat pocket]; and I understand that I have got myself liable to a whole lot of trouble because I have got some of that out to use.

Mr. FORT. I have told you about the troubles and the hardships of our farmers. I came through a town in Kentucky the other night, and stopped there, and there was an insurance company there, and they told me that it was an actual fact that they have gone so far as to forbid this company to insure any tobacco unless it is bought. We have to insure the tobacco when it is put in a warehouse, and they have forbidden the insurance companies to insure any tobacco unless it is bought by the trust.

Now, I think I see the trouble. I think you, this committee and Congress, want to give us farmers and tobacco growers assistance, and if you will solve this problem about this—where it is to start and where it will end—and you can—I believe you have brains enough and ability enough to solve this problem—you will earn the lasting thanks of our people. I came here for the poorer class of my people, and they have not anything—have not money enough to buy groceries for their families even, and I speak to you as an honest and plain farmer, and we beg and pray you to give us help. I thank you, gentlemen.

Mr. SHERLEY, of Kentucky. I want to ask the gentleman this question, whether if the tax was taken off of tobacco that was simply stemmed, and not twisted, and which is not manufactured in the usual sense of the term——

Mr. FORT. Yes, sir.

Mr. SHERLEY, of Kentucky (continuing). Whether that would suit the tobacco grower; as the bill is now drawn it permits only the farmer to do that thing. Suppose it was provided that the farmer or anybody else could twist his tobacco himself, would that be satisfactory?

Mr. FORT. I will answer that by saying that we are more than willing for you to put that provision in the bill. What we want is competition.

Mr. GAINES. What has become of your warehouses?

Mr. FORT. They are gone where the woodbine twineth.

Mr. GAINES. What is the cause of it?

Mr. FORT. These trusts.

Mr. GAINES. How long since they have been gone?

Mr. FORT. Since the trust came into existence. I used to sell my tobacco to farmers and they used to rehandle tobacco and there were a dozen buyers in my neighborhood and competition was so lively that it would make tobacco go up, and there was quite a boom with the tobacco farmers. Now there are just the agents who buy this tobacco, and there is no competition in the country, and they just set a price and then squeeze and squeeze down until they have the life squeezed out of the producers.

STATEMENT OF MR. C. P. WARFIELD, TOBACCO WAREHOUSEMAN.

Mr. WARFIELD. Mr. Chairman and gentlemen of the committee, I do not want to take up your time. You have been very generous with your time with us, and we appreciate very much the attention that you have shown us here; but I want to go directly at some of the questions that you are putting to some of the witnesses, and I want to answer the question as to how this competition is going to affect us.

There is a great deal in this that I do not understand. I have been in the tobacco business for fifteen years, and previous to that I was engaged in raising tobacco. But, to illustrate, I will take our section of the country, which is a dark-tobacco section. Western Kentucky and Tennessee raised last year 150,000,000 pounds of tobacco. That tobacco was bought mainly by England and Germany and Spain and France and Italy and Austria. Some of our tobacco is prized very highly and goes to all the countries.

We have had competitions with all these different lines and different countries coming in there competing with us. Now, I do not want to say anything against the trusts, because we were guarded against that down there at our farmers' meeting.

Mr. GAINES. No; I will do that.

Mr. WARFIELD. They said, "When you get there, now, boys, do not say anything about the trusts."

In answer to your question, Mr. Chairman, as to how this competition is going to affect us, I would say that Bremen has been, as you know, probably, the only open foreign country we have; the others are controlled by a Regie system. Recently the American Tobacco Company has undertaken to go in by Bremen and to sell tobacco there. Now, there are buyers on our markets, Germans, who have been on our little markets—open buyers and independent buyers representing independent firms in Bremen. It has 29 firms in Bremen, and it has been a dumping ground for all our products; it has been the only open market that we have had.

Last year the American Tobacco Company went into Bremen and they put down the price of tobacco. They went in there, and could undersell and did undersell—for the purpose of driving out the competition did undersell—this tobacco, and now the most hotly contested fight that I have ever known is being waged right in Bremen, and Bremen buyers in our country are standing shoulder to shoulder with producers and asking and realizing that they want competition. Don't you see? In other words, they go into our country to buy and they are cut out completely. They see this. They see the result of this.

Now, we sell, say, in that section of the country from 50,000,000 to 60,000,000 pounds to Great Britain, 25,000,000 to 30,000,000 pounds to Germany, 10,000,000 to 12,000,000 pounds to Austria, about 30,000,000 pounds to Italy, from 25,000,000 to 30,000,000 pounds to Spain, and about 20,000,000 pounds to France. That is the way that our tobacco runs. What is left over has generally gone to these other countries to be packed all over these countries where they have no other means of transportation except these little burros.

Now we find things, when we go to sell our tobacco, as these gentlemen have illustrated: and I will go a little bit further. Italy has

been buying our tobacco in our section. We have a type of cigar leaf that suits them. A great many of their tobaccos they get from us are used exclusively, almost, for cigars, and they buy that type of tobacco. The American Tobacco Company wants the snuff tobaccos out of that class of tobacco which they get, and they get the tobacco, and they can take the plug leaf and the Italian leaf, etc., and the snuff out of it, but they can not do that unless they buy the entire crop. Now, when it is bought I will show you how it is worked. When that tobacco is bought the American Tobacco Company is buying right alongside with them. They agree on the price and there is no competition at all, but the American Tobacco Company people will take the part of it which they use for their snuff, you understand, and the Italian people will take their leaf, and they work it hand in hand right along.

Mr. W. W. KITCHIN. It is a sort of a pool?

Mr. WARFIELD. Yes, sir; that is the way they work it. They take that crop. Consequently, every dealer we have got has been killed. He has been driven out of the business.

Now, the farmer is there with a crop of tobacco to sell, and he is bound to sell it. Our people are helpless. While we had competition and could expect dealers and speculators in there to buy up that tobacco, we could carry every man who was forced to sell; the warehouses would advance him money on his crop, and when the time came to put his tobacco in there he would bring it and put it there, and we could sell it, and we had speculation and competition, you see.

Now, this past season this competition has been so completely killed that every buyer on our tobacco market has been broken this last year, every one, and these buyers are sitting there waiting, and we know they can not buy, and the Italian people will not buy a pound of it. You can not ship a pound of tobacco to Italy and sell it yourself. It has got to go through the Rigi contract.

Now, those people are compelled to hold that tobacco there and just simply take any price on leaf that they offer to give. We have no competition whatever.

Mr. GAINES. Because your dealer has been done away with?

Mr. WARFIELD. Yes, sir.

Mr. GAINES. Formerly there were many of these in your neighborhood, but now they are all done away with?

Mr. WARFIELD. Yes; I am a tobacco warehouseman, and I have advanced thousands of dollars to every poor little farmer throughout the country all through the year, and I would carry that man. The Germans do not buy their tobacco until the spring of the year, until the danger of fermentation is past. Until he knows the condition of the tobacco he is not a competitor. The German buyers want to wait until the spring of the year in order to know the exact condition of the tobacco, to know that it will go through the sweat without danger of fermentation. Now, Mr. Chairman, we get down to this question: We have about 130,000,000 pounds, and it gives us a little surplus that we can not get rid of. It stands there all the time in the way, threatening and bearing the market.

Now, we want another customer, we want more customers; we want to ship that tobacco all through the South and West and put it into their hands like these people want it; and I expect you all know how the American Tobacco Company—and, understand me

now, I am not making a fight, and I do not want to be understood as making a fight—looks upon that. We want all the competition that we can get. They are all right there with us, and we want to keep them with us, but the thing, as I understand it, works this way: When the Battle Ax tobacco was first manufactured, it was manufactured first to drive out all these little manufacturers throughout the country. It began at 45 cents a pound, and finally they sold it for 13 cents a pound, and it closed up Lorillard and all of those manufacturers of plug tobacco, and all your manufacturers of plug tobacco, nearly, and they were compelled to go into this combination. It forced them into it.

There are now several manufacturers of plug tobacco that give some competition. Now, if we could manufacture and sell this surplus of 20,000,000 or 25,000,000 pounds of tobacco that stands there as a bugbear to effort all the time, we could carry that on to the market, and we would bring customers there to buy that, and that would go to be used as people want to use it. It would go West to be used.

As an evidence of how popular it would be, when the tax was off of it in 1894 our men began to buy it in our market, and the result was that for one or two seasons we had the benefit of this same law that we are asking for now; we had these little buyers there buying this tobacco and shipping it.

Mr. STANLEY. You mean that there was not this restriction on the handling of the natural leaf?

Mr. WARFIELD. Certainly.

Mr. GAINES. That was repealed?

Mr. WARFIELD. It was repealed in 1894.

Mr. GAINES. You are trying to get rid of that now?

Mr. WARFIELD. Now, we want that law right back.

Mr. GAINES. I understand that you want it reenacted, and——

Mr. STANLEY. You want to get rid of the restriction?

Mr. WARFIELD. That is right; we want to get rid of the restriction.

Mr. STANLEY. Go ahead.

Mr. WARFIELD. Just pass this bill. Either one of your bills will cover the ground. What we want is to get that restriction off. If we could get that restriction off, it gives us competition all down there.

Mr. HILL. You are a dealer in tobacco?

Mr. WARFIELD. Yes, sir.

Mr. HILL. A farmer raises his tobacco and comes and sells it to you?

Mr. WARFIELD. Yes, sir—no, sir; he sells it through me.

Mr. HILL. Well, he sells it; you have a right to buy his tobacco as licensee?

Mr. WARFIELD. No, sir; we have a law——

Mr. STANLEY. Through the warehouse commissioner?

Mr. WARFIELD. There is no tax on it to the producer—the laborer.

Mr. HILL. But in this case he would have to pay it. At the time of the first sale the tax is returned to the internal-revenue officer, and he pays the tax.

Mr. WARFIELD. Yes, sir.

Mr. HILL. The producer does not pay any tax?

Mr. WARFIELD. No, sir.

Mr. STANLEY. That is just the requirement of the law, that he must get a license, and he does not have to pay any tax to manufacture?

Mr. HILL. What you want is that the tax shall be taken off, and that he merely shall have the privilege of stemming and selling the tobacco, and then he sells it as twist?

Mr. WARFIELD. Yes, sir.

Mr. HILL. When does the tax begin, under your proposition?

Mr. WARFIELD. Not on this tobacco at all.

Mr. HILL. Not on this tobacco at all?

Mr. WARFIELD. No, sir.

Mr. HILL. It is only on the manufactured forms?

Mr. WARFIELD. Yes, sir.

Mr. HILL. Then the trust could come in and do this same thing with regard to this tobacco which they now do with regard to manufactured tobacco?

Mr. WARFIELD. Yes, sir.

Mr. HILL. Would not they do it just the same and close you out just the same?

Mr. WARFIELD. No, sir; it would not hurt us anyway.

Mr. GAINES. The farmers would continue to raise it and continue to compete with it?

Mr. HILL. Your idea is that you would not get any higher price, but only the privilege of handling it yourselves?

Mr. WARFIELD. We would get somewhat higher prices.

Mr. FORT. Certainly we would get a higher price.

Mr. WARFIELD. Here is where it would benefit you gentlemen living in the districts where you manufacture your home-grown tobacco. This matter of the little surplus that I have spoken of, that comes in there in that way against us, that comes also on you gentlemen in Connecticut. The effect of it comes there, don't you see, in taking our types of tobacco that they could substitute, probably, for your better grades of tobacco, and if we could get rid of that, that necessarily puts up the price of this other tobacco, don't you see, by giving you competition. It puts up the price of all of it, and it increases the consumption and benefits all.

Mr. GAINES. How would it interfere with the revenue?

Mr. WARFIELD. Of course I can not tell you about that. You have the statistics from the internal revenue.

Mr. GAINES. I have been trying to get that, and Mr. Yerkes has been endeavoring to get something of that kind.

Mr. STANLEY. Mr. Yerkes promised to get me some.

Mr. WARFIELD. I do not think it would affect it at all down in our section.

The CHAIRMAN. It seems to me what you want is practically the act of 1894.

Mr. WARFIELD. That is what we want, a reenactment of the act of 1894, so as to untie our hands and give us the privilege of selling to anybody.

Mr. GAINES. I want to ask you as nearly categorically as I can and get as brief answers as I can: Your country and territory down there is an exporting country?

Mr. WARFIELD. Yes; 80 per cent at least.

Mr. GAINES. Eighty per cent. Robinson County about 90 per cent?

Mr. WARFIELD. Yes, sir.

Mr. GAINES. And the Government gets no revenue whatever over there?

Mr. WARFIELD. No, sir.

Mr. GAINES. If you could stem and twist this tobacco, 90 per cent of which is exported, or this surplus, you could sell that out over the country to consumers, as, for instance, in Mr. Williams's country. Now, that would be stemmed or twisted and sent to the consumer down in the country here to whom you are not allowed to sell now without delivering in person.

Mr. WARFIELD. Of course.

Mr. GAINES. And if you sold him an excess over and above the amount he wants to use, he could sell that to the manufacturer, and when the manufacturer got hold of it, then he would have to pay a tax on the tobacco, would he not?

Mr. WARFIELD. Certainly.

Mr. GAINES. In other words, some of the tobacco would be stemmed and twisted by the farmer and sold at home, and any of it that ultimately got into the manufacturer's hands he would manufacture it over and pay a tax for so doing?

Mr. WARFIELD. Yes, sir.

Mr. GAINES. As it is now he pays nothing, because the grower does not stem or twist for consumers.

Mr. GAINES. If you allowed the farmer to sell his product to the consumer in that way, allowed him to stem and twist it without paying the tax?

Mr. WARFIELD. Yes, sir.

Mr. GAINES. That tax you want removed so that you can do that?

Mr. WARFIELD. Yes, sir.

Mr. GAINES. In a neighborhood where tobacco is raised, do you raise anything else but tobacco?

Mr. WARFIELD. Yes. Right on that question, you gentlemen have asked some questions about this soil and what it is suited for. We have this soil there; we have territory that raises the best tobacco that we have, and we will raise a good crop of tobacco, and we can not make three bushels of corn to the acre.

Mr. GAINES. How much does it cost to fertilize it?

Mr. WARFIELD. We are spending immense amounts for fertilizers all the time.

Mr. GAINES. Now, go on with my proposition. When you let the tobacco grower take the tobacco that he grows and stem and twist it, which he can not do to-day, and remove the requirement that he must pay that tax and remove the restrictions, then he can take it and send it to the nonproducing tobacco portions of the country—and large portions of the country produce no tobacco—and sell it there direct to the consumer?

Mr. WARFIELD. Certainly.

Mr. GAINES. And he would create a demand for that tobacco, for one thing?

Mr. WARFIELD. Certainly.

Mr. GAINES. That would create a competitor in that neighborhood with the tobacco trust?

Mr. WARFIELD. Yes, sir.

Mr. GAINES. And that would absorb this tabacco that is bearing our market all the time?

Mr. WARFIELD. Yes, sir.

The CHAIRMAN. Is there anything else?

Mr. WARFIELD. You spoke of competition. Italy is one of the best customers we have. She does not take but 30,000,000 pounds for her own consumption. We have a territory that will take that much, and the method that they have adopted is depressing our section worse than anything else. If we could get a place where we could sell as much as 25,000,000 or 30,000,000 pounds—and we could do it—that would help us on that; it would cause a competitor equal to Italy, one of the best customers that we have.

Mr. BARKER. Just a few years ago there was a competition among us, and you will remember that it gave us a big price for our tobacco, where the fight came up between the people who were bidding for the Italian contract.

Mr. WARFIELD. Yes, sir.

Mr. BARKER. You remember that?

Mr. WARFIELD. Yes, sir.

Mr. BARKER. Tell these gentlemen about that.

Mr. WARFIELD. The Italian contract was taken at one time from Bremen. Of course the legislative body of Italy controls the contract, and Bremen furnished the money, and Bremen controlled this contract. The contract is now controlled at Paris. Well, Bremen had it; she had her American agents to bid, and that contract was divided up. Mr. George Rawson—you remember or know of him—of New York, represented a part of that contract, and Mr. E. B. Powell represented another, and some one else another. They divided the contract up. The different grades of tobacco were divided into A, B, and C. A is the very highest type of cigar leaf that the Italian people have, B is medium, and C is practically a filler.

Now, those gentlemen in Bremen held the contract, and those gentlemen bought among themselves. They could ship the tobacco to Bremen, and the man who bought the Italian tobacco could sell it to one or the other of them; he could ship it to Bremen, and it would be bought there and shipped to Italy. But now they have a man here directly themselves that controls it absolutely, and he said—he is at my house frequently—"Don't you allow your dealers, don't you allow your buyers, to buy any tobacco. I just come to tell you that if you do we will not buy a hogshead of it." And he has not bought a hogshead; and he has not bought a hogshead there from a dealer.

Mr. GAINES. Where does he buy it?

Mr. WARFIELD. From the farmers.

Mr. GAINES. Straight out?

Mr. WARFIELD. From the farmers, yes, sir; and if the farmer does not take one price—his price— he just lets it stand there in the barn until he gets ready to take it, and finally he has to take the Italian price.

Mr. GAINES. The farmer has to take the Italian price?

Mr. WARFIELD. Yes; he finally has to take it.

ADDITIONAL STATEMENT OF MR. R. E. COOPER, OF KENTUCKY.

Mr. COOPER. What we want is the privilege of selling tobacco to any person in the leaf, stemmed and twisted free from any foreign ingredients or flavoring. That is the bill we want in our country. We

want the privilege now of selling that to any person, and we want it to be handled and traded in just as wheat and corn are handled and traded in, so that we can sell it to the colored people and to merchants or to any person, farmer or dealer or merchant.

The CHAIRMAN. Why can you not do that now?

Mr. COOPER. Because the merchant can not resell that tobacco without paying that tax of 6 cents.

Mr. GAINES. And putting it in a box.

The CHAIRMAN. Oh!

Mr. COOPER. The merchant can not resell that without paying the tax, and that is the reason we want the privilege of selling it in the raw state, and in that way we will increase the consumption. Natural tobacco is the cheaper tobacco.

Mr. WILLIAMS, of Mississippi. That refers to the natural tobacco on the stem. It makes the tobacco unstemmed without tax altogether, no matter to whom or by whom sold.

Mr. COOPER. That would be a benefit to us. And then it makes the tobacco stemmed or twisted or hand pressed untaxed only when it is sold by the farmer.

Mr. STANLEY. Now, I have a bill here (H. R. 9870)—I have introduced a bill—specifically providing that the leaf tobacco shall be a commodity like wheat, free of all tax, and that the twist, when made by the farmers, shall be free of tax, so that every farmer could twist his tobacco, you understand, and the farm-made twist would be free of tax either in the hands of the farmer or of any other person.

Mr. WILLIAMS, of Mississippi. That is not the bill that I saw.

Mr. STANLEY. That bill is here.

Mr. COOPER. Then we can sell to the consumers. The cheapest tobaccos now are 40 cents to 60 cents retail. We can furnish them to consumers or laborers who can not buy tobacco now for 15 to 20 cents. After it passes from the hands of the producer it will go to the consumer, and in that way we hope to very largely increase the consumption. If you cheapen the tobacco they will inevitable use more. And then it increases competition, because all through the West the merchants will send for a hogshead that they can sell out to the croppers and tenants.

Mr. STANLEY. The principal thing you want is competition?

Mr. COOPER. Yes, sir.

Mr. STANLEY. If the farmer has the right to twist his own tobacco and sell it in the twist—the producer has that right—then whenever the combination of the Imperial and the American companies press the price of the tobacco in the hands of the farmers down to where it is now, 3 cents, it will force this other tobacco into the market, and in order to keep this home-twisted tobacco out of the market, this article in which there is very little profit, they will be bound to pay you more for the tobacco to be made into plug, or anything else, and give you a living profit?

Mr. COOPER. That would, in a measure, no doubt, figure out that way; but what we want now is, as I have stated, to create this demand by letting people buy it who are not able to buy the tobacco now at the price that we can furnish it to them. Our farmers frequently would sell it to a merchant, and then he would let it go on down the line at 10 or 12 cents a pound. There will be no tax on it at that, and if you will put the price at 15 cents, instead of 50 cents; we believe

the consumption will increase as you decrease the price of the tobacco. As it is now, the cheapest tobacco we can buy is from 40 to 60 cents—the cheapest tobacco the manufacturers put on the market.

Mr. METCALF. Do you mean smoking tobacco?

Mr. COOPER. Yes, sir.

Mr. METCALF. I think there is smoking tobacco that sells from 3 to 5 cents for a 2-ounce package.

Mr. COOPER. I must beg your pardon, then. I think there must be some mistake about that.

Mr. METCALF. We had it so testified before us by the manufacturers. (Anticoupon hearings.)

Mr. STANLEY. If you examine those packages you will find that that tobacco has the stem ground up with the leaf.

Mr. GAINES. I have some petitions here that I want to file with the committee and two or three letters that are very pertinent to this question.

The CHAIRMAN. There are several of those petitions; are they identical in matter; are they the same except for the signatures appended to them?

Mr. GAINES. Yes, sir; but they are signed by different parties.

The CHAIRMAN. Insert one of them in the record to be printed. There is no use duplicating them. (See p. 66.)

Thereupon the committee adjourned.

THURSDAY, *February 25, 1904.*

The subcommittee on internal revenue (No. 3) this day met at 10.40 o'clock a. m., Hon. John Dalzell in the chair.

Members present: The chairman and Messrs. Tawney, Hill, Cooper, and Clark.

The CHAIRMAN. The committee will come to order. Mr. Commissioner, do you want to be heard first? Will it suit your convenience?

STATEMENT OF MR. JOHN W. YERKES, COMMISSIONER OF INTERNAL REVENUE.

Mr. YERKES. It is immaterial to me, Mr. Chairman. I am here at your request——

The CHAIRMAN. I think we had better hear you first. You understand the purpose of this meeting and of the bill under consideration?

Mr. YERKES. Yes, sir.

The CHAIRMAN. We will be glad to hear anything you may say about it.

Mr. YERKES. I have brought some papers up here with me this morning, not as a basis of argument, but as a reference encyclopedia to answer questions propounded by the committee.

I presume the desire is to meet the conditions that exist to-day, without any special reference to what caused those conditions. And yet in reading, this morning, the testimony that has been introduced before the committee, I think in one or two places there are a few evidences of hysteria, and an effort to charge the present conditions to statutes of the Federal Congress and to the regulations made by the Department under those statutes—an effort to charge all the evils

Mr. YERKES. Unquestionably. Unless sold to another leaf dealer, a manufacturer, or an exporter.

The CHAIRMAN. That is what Mr. Yerkes said?

Mr. GAINES. No; he said dealers.

Mr. YERKES. Your own act here is absolutely specific. It does not require any construction on the part of the Department whatever. It is the law of 1894, which says that all tobacco sold by any person other than the farmer to the consumer becomes manufactured tobacco in the eye of the law, because it comes into competition with the tax-paid tobacco bought by the consumer.

Mr. GAINES. Whether in its natural condition or not?

Mr. YERKES. It does not make any difference.

Mr. CLARK. Suppose I sell it to you. What is the sense in that law or regulation?

Mr. YERKES. It is not for me to say wherein the sense of the statute consists.

Mr. CLARK. Yes; you are expounding this now.

Mr. YERKES. I enforce the law you make——

The CHAIRMAN. If Mr. Gaines sells to Mr. Clark, neither of them pays any tax, and Mr. Clark does not pay any tax unless he sells to the consumer?

Mr. YERKES. Exactly.

Mr. GAINES. He can sell it to anybody else?

The CHAIRMAN. If you are a manufacturer, and Mr. Clark sells that to you, does he pay the tax?

Mr. TAWNEY. No; I put it on the market as the manufacturer of tobacco, and he pays no tax.

Mr. GAINES. If the man who buys from the producer sells to the consumer the natural leaf that is bought from the producer, under the act of 1894, section 69, that natural-leaf tobacco thus sold is considered manufactured tobacco, and taxable, although it has never been changed in its condition.

Mr. YERKES. The reason for that is perfectly apparent. While the law allows the producer or grower of tobacco to sell it in competition with manufactured tobacco without the payment of tax, when anybody else does it then the law, in order to protect manufacturers who pay the tax and the revenue, says it becomes manufactured tobacco and must pay the tax, although it has not changed in form.

Mr. GAINES. How much revenue do you get from that particular way of selling tobacco?

Mr. YERKES. I would say about nothing. Do any of you gentlemen know of leaf tobacco being sold to any man with a tax of 6 cents a pound paid on it?

Mr. COOPER. Do you think that is a wise law?

Mr. YERKES. For the protection of the revenue, in a certain sense it is.

The CHAIRMAN. Gentlemen, I would suggest that you had better let Mr. Yerkes go on, and after he gets through you can ask him questions.

Mr. YERKES. Now, one word as to the conditions that exist. That the tobacco industry, so far as the producer is concerned, is not in good condition is abundantly proved by the testimony now before this committee. But I do not believe, Mr. Chairman, that the present conditions are the results of the statutory enactments of Congress, or

of the rules and regulations made thereunder by the Treasury Department. I believe they are largely due to the overproduction of tobacco itself.

Let us take the figures on that. You find, for instance, in the report of the Bureau of Statistics for 1903, and by the way it is impossible for me to understand how they give us tobacco figures for 1903 already——

Mr. WASHINGTON. They drew it only by estimation. The crop has not yet been moved.

Mr. YERKES. It takes thirteen months to produce and deliver tobacco, and the 1903 crop has not been delivered to any large extent. But, taking the figures for various years, from 1885 down to 1903, as to the area of tobacco planted in the whole United States, we see that in 1885 there were 752,000 acres cultivated in tobacco; in 1903 there were 1,037,000 acres. In 1895 there were 633,000 acres, and in 1892 there were 1,030,000 acres. Then you find an increase from 500,000,000 pounds of tobacco produced in 1885, 1886, 1888, and 400,000,000 in 1896, to 800,000,000 in 1902, and same in 1903, in round numbers.

Now, take the tobacco exported and that used by the manufacturers of this country, and the wastage allowed, and some of which we have no record of, and the amount on hand is quite large. There is undoubtedly a large amount of tobacco now in the hands of foreign buyers, and also, I presume, in the hands of buyers in this country; so that the congestion, to some extent, has been caused not by the internal-revenue laws and regulations, but by overproduction of the product itself.

Mr. Gaines, in reading your speech carefully, I notice that in your figures which you took from the Tobacco Leaf——

Mr. GAINES. The Tobacco Leaf stated, as I remember, that they were obtained from the Agricultural Department.

Mr. YERKES. I have the report of the Bureau of Statistics, and I find quite a difference, for instance, in the value of the product of 1902, as compared with your statement of it, as being $57,500,000 The total value, as stated here, is very much more. I do not know which is correct.

Mr. TAWNEY. When you say "here" you mean the Bureau of Statistics?

Mr. YERKES. Yes. But it is clear from the acreage and from the number of pounds produced that there has been a marvelous increase in the amount of tobacco produced in this country.

Mr. STANLEY. I do not want to interrupt you, because I have great faith in the statements of the gentleman. Is it not true of this large acreage of tobacco of which you speak—this difference between the acreage at the time mentioned and now—that the rapid increase occurred ten or fifteen years ago, or within the last five or six or seven years? Will all the figures show a marked increase?

Mr. YERKES. No; they will not.

Mr. STANLEY. Is it not due entirely to the production of White Burley in central Kentucky and in that whole Silurian region where this bastard tobacco is grown that is known as the White Burley, and that accounts for the increase in the amount of tobacco, while otherwise in the last six or seven years there has been no rapid increase?

Mr. YERKES. I can give you the figures, and you are correct in your idea. In 1896 the acreage was 595,000. In the figures I have I have

only certain years. Then, in 1899 the acreage was 1,100,000. In 1903 the acreage was 1,037,000.

Mr. STANLEY. Now, Mr. Yerkes, do you not draw that conclusion from the fact that there is now in foreign markets quite a lot of tobacco unsold?

Mr. YERKES. Yes.

Mr. STANLEY. The American Tobacco Company shipped several hundred thousand hogsheads of tobacco; and not only the American Tobacco Company, but the brokers here in America, shipped large quantities of tobacco into Great Britain with the purpose of taking that market. Then the American Tobacco Company and the Imperial Tobacco Company of Great Britain formed, about three years ago, a coalition, in which they agreed that neither one of them would touch about 150,000 hogsheads of tobacco which is there in the Queen's warehouse, because that tobacco was held by independent brokers. That tobacco has been debarred of its market by an understanding between the Imperial and the American Tobacco companies and not for want of production.

Mr. YERKES. I know nothing about those matters as to who owns the tobacco, and why it is held, and why it is not on the market.

To continue, Mr. Chairman, I am clearly of opinion that, as we have virtually the same laws now that affect the producers of tobacco as we have always had, but differing somewhat in the avenues taken to reach that effect, I do not think it will be seriously contended, or the charge maintained, that the laws of Congress as enacted are responsible for whatever troubles may at present exist in this business.

Now, speaking directly to the bill——

Mr. GAINES. One question, Mr. Chairman. Mr. Commissioner, will you tell the committee why it was that we enacted the act of April, 1902, this act which you allude to in your letter to me of March 12, 1903?

Mr. YERKES. That is the act, if I remember correctly, where the rate of tax is reduced. That, Mr. Gaines, is the law passed by Congress reducing the tax back to 6 cents. On June 13, 1898, you passed the first Spanish war revenue tax, by which the tax on tobacco was increased from 6 to 12 cents a pound.

The CHAIRMAN. That act in 1902 was the repeal of the war-revenue tax?

Mr. YERKES. Yes; you first reduced the tax from 12 cents, in 1901, to 9.6 cents, and then you made the final repeal, putting the tax back to the original rate of 6 cents, in 1902.

Mr. GAINES. Do you not say that that law makes the producer who makes twists of stems a manufacturer?

Mr. YERKES. That was the law before 1902.

Mr. TAWNEY. It was the law before.

Mr. GAINES. You state there that it was the law of 1868 reenacted.

Mr. YERKES. I do not remember all the details of that letter to which you refer, but I prepared the letter.

Now, Mr. Chairman, coming directly to Mr. Gaines's bill, which I understand is the bill which is up before you, it says, in the first section (reading):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any person to buy and sell tobacco unstemmed and in the leaf without license or the payment of any tax of any kind.

The CHAIRMAN. That is the law now unless he sells it to the consumer?

Mr. YERKES. Yes; that is the law now.

Mr. GAINES. The law is exactly that way now if he sells to the consumer, but the man who buys from him and sells to the consumer has got to pay a tax of 6 cents, under section 69, act of August 28, 1894.

Mr. YERKES. That is what the chairman said. He stated it exactly.

Mr. GAINES. Then I beg the chairman's pardon.

Mr. YERKES (reading):

SEC. 2. That it shall be lawful for any grower of tobacco to sell his own product, or to deliver to another person any tobacco grown by himself to be by such person carried to market and sold for the benefit of the grower, any tobacco grown by such planter, in the hand or in the leaf, or stemmed, or stemmed and hand twisted, or stemmed and hand pressed, or hand twisted, or hand pressed, without license and without the payment of any tax of any kind: *Provided*, That such planter shall furnish to the person by whom he sends it to market or offers it for sale a written authorization for that particular transaction, specifying the number of pounds.

It is this feature of the law which, as representing the Treasury Department, I can not approve. It is not for me to consider the question of a decrease of revenue. That is for the legislative mind to determine. I can only state the effect that in my judgment such a law would have upon the revenues of the Government, and also the effect that such an enactment would have upon the proper administration of the internal-revenue laws so far as they control the collection of taxes upon tobacco products.

It is very difficult, Mr. Chairman, for me to say exactly what amount of tax the Government would lose by the enactment of the second section, even after as thorough examination as I could make by correspondence with the collectors throughout the United States, and by examining all the records to which we have access and trying to reach an accurate statement as to the amount of tax annually secured by the Government through the 6 cents per pound levied on the twisted tobacco as distinguished from other forms of manufactured tobacco. But I do not believe the Government receives to-day more than $700,000 or $750,000 per year as the result of the tax upon twisted manufactured tobacco. You have some of these twists here to-day. Mr. Flack had some.

The CHAIRMAN. Yes; we had it here.

Mr. TAWNEY. And Mr. Stanley had some.

Mr. YERKES. Now, if you allow the farmer to hand twist his tobacco and get it on the market without the payment of 6 cents per pound, you would largely displace this manufactured twist tobacco. How far that displacement would go, I do not know.

But it would have another effect, too. Here is a specimen [indicating]. Now, you gentlemen who live in the North and East, largely—take, for instance, my friend, Mr. Hill, of Connecticut—I do not expect that there is very much tobacco chewed in his country. But down with us, and throughout the South, and in some States in the West, a man will take this twisted tobacco—either hand twisted by the farmer or twisted by the manufacturer—and he uses it for the double purpose of both chewing and smoking. So that this farmer-twisted tobacco, if put on the market at a lower price by reason of the tax being removed, would necessarily come in conflict with and displace, to a certain extent, the present manufactured tax-paid smoking tobacco.

But leaving the question of revenue aside for the present, and I say it is only a guess—and I think Mr. Stanley showed a great spirit of fairness before the committee in the statement that he read, when he stated that the maximum loss to the Government could not be over $2,000,000. I think he was very conservative in his statement. But I doubt if it would reach that. I do not think the difference of price would be so great as to lead every man to buy the hand-twisted article—the tobacco twisted by the farmer—as I do not think they could make it look as neat and as attractive as the manufactured twist.

Mr. CLARK. What objection is there to giving the fellows a chance to smoke and chew the plain twist, without buying the manufactured stuff?

Mr. YERKES. It would simply be a loss of a tax of 6 cents a pound to the Government.

Mr. CLARK. But tobacco has become as much a necessity as anything else which may be a question of revenue.

Mr. YERKES. I said there was the question of revenue in the first place to be considered by the committee.

Now, another objection I have to it, and you might say that is departmental, will be the difficulty of preventing fraud in the collection of governmental taxes on tobacco.

Mr. STANLEY. I do not presume that you want to be understood as saying that you think it would be unwise to enact this bill into a law, but merely that it would present certain difficulties to the Department.

Mr. YERKES. Yes. Now, for instance, gentlemen, you pass this law giving the farmer the privilege of hand twisting his tobacco; he can sell it to the cross-roads merchant, to the storekeeper anywhere. Under your laws it is provided that every form and type of manufactured tobacco must pay a tax, and after paying it it must have a stamp on the package to represent the payment of that tax.

Suppose this becomes a law and the internal-revenue agent goes into a store. Here is a box containing manufactured twist, and here is another box right beside it containing a like manufactured twist, but not twisted by a manufacturer but hand twisted by the farmer. Now, will you tell me how the agent can tell whether the tax has been paid? They are made identical and could be placed in either package—the nontax placed in the tax-paid package. In that case why can not the twists be shifted from one box to another with perfect impunity? It will be very difficult, in the case of men sent out to examine tobacco, to enforce the tax on the manufactured twist tobacco.

Mr. STANLEY. Right there, Mr. Commissioner. If the tax is taken entirely off tobacco in that form, no matter by whom made, will not that obviate that difficulty?

Mr. YERKES. Yes; I suppose it would.

The CHAIRMAN. How much would that cost?

Mr. YERKES. I do not know. The twist would cost very much less than the manufactured plug, and almost everybody would use the cheaper. I do not know how many would prefer the dearer to the cheaper.

Mr. TAWNEY. That is the only way in which this difficutly of administration can be overcome, and that is by making all tobacco in that form, however produced, free of tax?

Mr. YERKES. Yes, sir.

Mr. GAINES. I understood you to say that you only got about $750,000 from the twist?

Mr. YERKES. Yes. It would be that much, and I believe more.

Mr. TAWNEY. To the extent to which this displaces the other, you mean the loss would be that much?

Mr. YERKES. Yes. This would displace the other.

Mr. STANLEY. Is it not your candid opinion, Mr. Commissioner, that if a man chews a certain brand of tobacco, unless he is very, very poor he will continue to chew it, without regard to the matter of 6 cents a pound in the cost of it?

Mr. YERKES. As a rule, I think it would not affect seriously at all the purchase of tobacco by people who draw, for instance, Congressional and departmental salaries. [Laughter.]

The CHAIRMAN. People of that grade?

Mr. STANLEY. Do you think it would affect any standard brands of plug tobacco?

Mr. YERKES. To a certain extent, but not seriously. The high-priced manufactured tobacco would still be bought by people who want the best.

Mr. STANLEY. Is it not true that three-fourths of the $43,000,000 that you get from this—all but about $15,000,000—comes from the manufacture of snuff, cigars, and cigarettes, and only $15,000,000 from all plug tobacco?

Mr. YERKES. I think so; all but some $18,000,000.

Mr. STANLEY. But taking the tax off of twist could not affect the sale of plug tobacco, the higher-priced plugs, in the East and South over one-fourth?

Mr. YERKES. I can only say as to that, it would be the merest guess. We have no data on which I could base an accurate answer.

Mr. TAWNEY. Would not this be the effect: If you removed the tax from the manufactured twist and from the twist that is made direct by the producer, would not that be a very great inducement to the manufacturer to force the sale of manufactured twists because of the increased profits over and above the profit he would receive on other manufactured tobacco?

Mr. YERKES. I think so.

Mr. TAWNEY. Would not that lead to a displacement of a larger amount of tax-paid tobacco than would otherwise occur?

Mr. YERKES. Yes; I tried to suggest that.

There is just one other point in regard to this bill. I really believe the gentlemen interested overestimate the value it would be to the growers to have this privilege granted of twisting.

Mr. GAINES. Only a little more liberty; that is all. That goes a long ways.

Mr. YERKES. Now, for instance, you take the tobacco produced in Kentucky and Tennessee, directly represented here. The record shows that at the present time of all this splendid tobacco produced in Kentucky and in Robertson and other counties in Tennessee—of all that tobacco, probably three-fourths, or maybe nine-tenths of it, is exported.

Mr. GAINES. Eighty per cent of it.

Mr. YERKES. Yes; 80 per cent is exported; so that if you gentlemen had the privilege of making up the remaining 20 per cent into hand twists, I do not believe it would benefit you as much as you suppose.

Now, passing from that, let me come to the proposition where I feel a remedy can be granted without a large reduction in revenue and still where, in my judgment, it would benefit you more than the privilege of making your tobacco up into twists. I am told frequently that the farmers have not the deftness and ability to make this twist. They can not keep at it continuously and can not get opportunity to become proficient in it.

Mr. GAINES. They would do so in barns—"rainy" and "off" days.

Mr. FLOOD, of Virginia. Is it not a fact that this tobacco that is shipped abroad, a great deal of it, could be made up into this twist and consumed at home? Is it not a fact that the foreign buyers have combined?

Mr. YERKES. Now, my dear sir, I know absolutely nothing about that. I believe if you had a reduced acreage of tobacco, and a less amount on the market, you would not have the same ease of combination, because everybody then would have to hustle for himself to get his share of the crop produced——

Mr. FLOOD, of Virginia. But the foreigners buy it up——

Mr. COOPER, of Texas. I want to ask some questions. You largely stated your objections to this bill, and went on to state your idea of a bill that would give relief.

Mr. YERKES. No; I was going on to discuss Mr. Gaines's bill.

The CHAIRMAN. Before you get on to that, I want to ask you this question: I understand a large proportion, 80 or 90 per cent, of this tobacco goes abroad.

Mr. YERKES. Yes.

The CHAIRMAN. That tobacco pays no tax at all?

Mr. YERKES. Absolutely none, in any way.

The CHAIRMAN. If it were possible, without infringing the Constitution, to impose a tax on that tobacco, would not that be a good source of revenue and a wise thing to do?

Mr. YERKES. The question comes, then, Mr. Chairman, as to whether the producer of tobacco would want any restriction placed upon the export of his tobacco. You know the theory in all internal-revenue laws is that no export tax shall be levied. But the United States Supreme Court has decided in certain cases that there can be a species of tax——

The CHAIRMAN. A stamp tax?

Mr. YERKES. Yes; for purposes of identification—a sort of police regulation.

The CHAIRMAN. Still it produces the result.

Mr. GAINES. The tobacco with that police stamp on it sold for more than it is selling at now, and it did not change its sale in the United States as to the amount. This the official reports from the Bureau of Statistics show.

Mr. YERKES. Now I am coming to this proposition—trying to reach the question of relief.

At the present day the farmer, as I said, can sell the tobacco of his own growth, or his tenant's growth, to anyone, but that purchaser, when he takes it, must sell it either to another retail dealer in leaf tobacco or a manufacturer of tobacco, or for export purposes, unless he is willing to pay a tax of 6 cents a pound on it. If he sells it to me, or to you, he must pay the tax of 6 cents. Now, can we not

extend to him the privilege of selling the tobacco in hand, in the natural condition, or perhaps even stemmed, to the individual consumer?

Mr. GAINES. That covers two of the provisions of my bill.

Mr. STANLEY. Do you mean to the exporter?

Mr. YERKES. Anyone. For instance, a farmer in your county, under the change proposed, will ship to a retail merchant in Arkansas 100 or 200 or 500 pounds of this tobacco, in the hand, in the natural state, or perhaps even stemmed. Then let that merchant sell it, without any tax upon it, to anybody on earth he chooses, except to a manufacturer of tobacco. That will be free trade in leaf tobacco in that way.

Mr. STANLEY. I have a bill to provide that alone.

Mr. GILBERT. What shape could he put it in after stemming it?

Mr. YERKES. He could put it in the hand. I do not know whether it is necessary to give the stemming privilege.

Mr. WASHINGTON. I do not think it would do any good.

Mr. YERKES. Just sell it in the natural condition, in the leaf, as any other article is sold, except at present I would like to have a limitation to prevent the second owner, the purchaser, from selling to a manufacturer. I am not sure whether that is necessary or not.

Mr. TAWNEY. You mean the second owner, not the second purchaser?

Mr. YERKES. Yes. It is a question of keeping our accounts with manufacturers of tobacco. Our only check upon them is our account with the leaf-tobacco dealer, and we check them one against the other.

Mr. GAINES. Then I understand you, Mr. Commissioner, that you approve of that section of my bill?

Mr. YERKES. I do not think that it would materially injure the revenue of the Government. I do not think it would materially affect the proper enforcement of the revenue law, and I believe it would give large relief to the tobacco grower.

Mr. GAINES. It would repeal a portion of section 69 of the act of 1894.

Mr. YERKES. It would cause us to go very carefully over the entire law as to tobacco. Three or four sections would have to be radically changed.

Mr. STANLEY. Do you not think we could repeal the provisions of the McKinley bill as to tobacco without material injury?

Mr. GAINES. Section 69 of the act of 1894——

Mr. YERKES. I believe you could grant relief along that avenue that would be of great benefit to the producer. What is your idea about that, Mr. Washington?

Mr. JOSEPH E. WASHINGTON (former Representative from Tennessee), I indorse that statement of yours, Mr. Yerkes.

Mr. YERKES. Now, as to the question which Mr. Tawney asked me the other day in regard to premiums offered by manufacturers to purchasers of cigars and cigarettes, etc., upon return to them of the sacks or pasteboard boxes or wooden boxes with a stamp showing payment of the tax still upon the package. That is a violation of the law. I have letters here indicating that we will proceed against any manufacturer who will do that. The statute is perfectly clear and plain. The statute is abundantly full upon that subject.

Mr. TAWNEY. I wanted to know if your attention had been called to that. The fact that I wanted to ascertain was, Whether or not the offer has heretofore been made?

Mr. YERKES. Yes, sir; the offer has been made, and they have been informed that it could not be carried out. I have the letters here.

Mr. COOPER, of Texas. Let them be put in the record.

Mr. YERKES. Yes, sir.

Reuse of emptied statutory tobacco or snuff packages.

[Held that any advertising scheme which anticipates and results in the return to the manufacturer of any emptied stamped package of tobacco or snuff would be in violation of section 3362 and 3376 of the Revised Statutes.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 12, 1902.

GENTLEMEN: This Office has received your letter, dated 29th ultimo, in which you present substantially the question whether it is permissible for a manufacturer to redeem emptied statutory packages of snuff after they have gone into the hands of consumers, the snuff being packed in paper packs, weasands tin cans, glass bottles, tumblers, etc., and whether upon redeeming such emptied packages they could be reused for packing snuff provided all evidence of previous use had been removed from the packages and entirely effaced.

In reply your attention is called to section 3363, Revised Statutes which requires that the caution-notice label shall distinctly state that "the manufacturer of this tobacco has complied with all requirements of law. Every person is cautioned, under the penalties of law, not to use this package for tobacco again;" and also to section 3376, Revised Statutes which imposes a penalty upon any person who sells or gives away, or who buys or accepts from another any emptied stamped box, bag, vessel, wrapper, or envelope of any kind, or the stamp or stamps taken from any such empty box, bag, vessel, wrapper, or envelope of any kind; and, further, that every manufacturer or other person who puts tobacco or snuff into any such box, bag, vessel, wrapper, or envelope, the same having been emptied or partially emptied, will be subject to a fine and to imprisonment. Therefore the Office decides that any advertising scheme which has for its purpose the return to the manufacturer of the stamped package would be in violation of law, and any emptied package found at the factory so branded, marked, labeled, or stamped as to show previous use would subject the manufacturer to the penalties prescribed by the statute.

Whenever any stamped box, bag, vessel, wrapper, or envelope of any kind containing tobacco or snuff is emptied, the statute requires that the stamp thereon shall be destroyed by the person who has possession of such emptied box, bag, vessel, or wrapper, and every person who willfully neglects to destroy the stamp will be subject to a fine of $50 and imprisonment of not less than ten days nor more than six months, as provided by the statute.

Respectfully,

ROBT. WILLIAMS, Jr.,
Acting Commissioner.

STANDARD SNUFF COMPANY, *Nashville, Tenn.*

The CHAIRMAN. Now, here is Mr. Stanley's bill [submitting copy of bill, H. R. 9870, to Commissioner Yerkes].

Mr. YERKES. I would like to have this a day or two, to see if that privilege could safely be granted.

Mr. GAINES. The purchaser of tobacco will be allowed to sell through his agent, and not be obliged to deliver in person.

Mr. YERKES. I do not think that hurts you much.

Mr. GAINES. Oh, yes; it does. Here is a letter in a Texas case where a man wanted to "put a man on the road in a wagon to retail" his leaf tobacco, and the Department said the grower must do this "himself" and not by any agent. Here is a letter to that effect, and I would like to put it in the report.

The CHAIRMAN. Then give it to the reporter.

Mr. GAINES. Very well

Leaf tobacco—Grower can only retail from place to place.

[Published for the information of collectors.]

TREASURY DEPARTMENT,
OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 16, 1897.

P. B. HUNT, Esq.,
Collector Fourth District, Dallas, Tex.

SIR: Mr. G. D. Powell, of Rosalie, Tex., has written to this office in regard to the sale of leaf tobacco which he raises on his farm, and states that he wishes to "put a man on the road" with a wagon to retail. He has been referred to you.

In reply you are informed that the only person who can travel from place to place retailing leaf tobacco, without liability under the internal-revenue laws, is the grower of the tobacco himself. He can not extend this privilege to other persons employed by him to act as agents for him in the sale of his leaf tobacco.

There is no objection under the internal-revenue laws and regulations to the farmer employing men either to travel and take orders by means of samples for leaf tobacco of his own growing, or to take such orders at fixed places of business, provided all these orders are sent to the farmer who ships the leaf tobacco for delivery to the persons ordering.

The law contemplates that the farmer or planter may himself sell leaf tobacco of his own growth and raising without any restrictions. He can sell it loose in the hand in any quantity and to any person, but this is a personal privilege which he can not delegate to anyone else. Leaf tobacco can not be sold for the farmer by a broker on commission or by an agent or employee without rendering such party liable as a dealer in leaf tobacco.

Respectfully, yours,

G. W. WILSON,
Acting Commissioner.

Mr. TAWNEY. Mr. Chairman, suppose we submit the Stanley bill to the Commissioner now, and let him give us a written opinion later.

The CHAIRMAN. I have done that. We will be glad to hear from you about it later, Mr. Commissioner.

Mr. STANLEY. Gentlemen of the committee, I want now to introduce Mr. Flack, a manufacturer of tobacco, as well as a grower.

Mr. FLACK. No; I am not a grower.

Mr. STANLEY. But he is a manufacturer, and he knows more about tobacco than any other man in the United States.

The CHAIRMAN. Mr. Flack, give your name, and place of residence, and business to the reporter.

Mr. GAINES. Right there, Mr. Chairman, will you indulge me just a moment to make an inquiry? Mr. Washington is here, whom you know as well as I. He wants to be heard, and I wanted him to be heard. He is an experienced man. Will the committee indulge him in the afternoon, if the committee runs with Mr. Flack to 12 o'clock noon?

The CHAIRMAN. I can not promise as to that.

Mr. GAINES. Then, Mr. Flack, will you and Mr. Washington divide the time?

Mr. FLACK. Yes.

STATEMENT OF MR. E. M. FLACK, OF HOPKINSVILLE, KY.

Mr. FLACK. Mr. Chairman and gentlemen, my business is that of a tobacco broker. I am interested in the manufacture of tobacco, but my principal business is that of a tobacco broker. I suppose I have been called here to testify simply as a witness as to the condition existing in my country in the tobacco business, and in that part of Tennessee known as the "dark district," which my friend Mr. Washington represents. I can only speak with a partial degree of accuracy about

that district. I can not speak of others; but I know something about that.

In that territory we raise about 80,000 or 90,000 hogsheads of tobacco annually, making 140,000,000 pounds of dark tobacco. Eighty or eighty-five per cent of it is exported. The remainder, or the greater part that is not exported, is made into snuff, so that the amount that is manufactured is quite small as compared with the amount grown.

Mr. GAINES. Will you tell the chairman and gentlemen of the committee what the trouble is there, and what will cure it?

Mr. FLACK. That is the very thing we are after now. The people are suffering very much in that country. They are not getting enough to live on. At present the price of tobacco is lower than ever before. In fact it is about at a starvation point. In fact I take it that in all that territory—from Louisville to Nashville—for all that tobacco there they could not get more than 3½ cents a pound. I question whether they would be able to get 3 cents a pound for it. That, in the main, is the case. In a few special localities it might be different. It is very trying on the people, and they are suffering very much. They want relief, and they think and believe, as I do, and as my friend Washington does, that if the Government tax is taken off of tobacco we would be enabled to realize a great deal more money.

Mr. GAINES. Taken off leaf tobacco in any person's hands?

Mr. FLACK. Either twist or leaf. That would help us. That is about the state of the case. That tobacco can be used, and is used, and would be much more freely used, in the West and in the Southwest than it is now if it could be sold cheaper—if the farmer could sell it in the hand, or the small dealer could put it into boxes and sell it.

Mr. STANLEY. Please explain to the committee, Mr. Flack, the new demand to be created for this tobacco, and where it would be.

Mr. FLACK. Yes; it would increase the demand throughout all the Southern country—in the cotton plantations and in the cotton gins and in the mining districts and, in fact, among all the poorer people. They never use any high-grade tobacco nor cigars to any great extent. The laboring classes, the poorer classes of people, do not smoke cigarettes, nor do they use snuff, except, possibly, the women [laughter]. But this would not come in contact or competition with snuff.

Mr. GAINES. Are you familiar with this bill of mine?

Mr. FLACK. Yes; I was favorably impressed with that clause of the bill allowing the selling without restriction in any shape.

Mr. GAINES. That is what the people want—free trade in leaf tobacco?

Mr. FLACK. Yes, sir. Now, the reason we believe it would enhance the value of our tobacco is because it is largely bought for export, and the exporters are buying it now at about their own prices.

Mr. HILL. There is no tax on it for export?

Mr. FLACK. No; there is no demand against it except for snuff.

Mr. FLOOD, of Virginia. Is there not a combination on the part of certain foreign governments to buy it?

Mr. FLACK. We think so.

Mr. FLOOD, of Virginia. Does not the same man buy for the Austrian and for the German Governments?

Mr. FLACK. No; I buy for the Austrian Government. I take a different class of tobacco, and pay very high for it.

Mr. GAINES. Mr. Yerkes and others are about agreed to give free trade in leaf tobacco. Here is another section about hand twist and hand stemmed.

Mr. FLACK. Yes; I am in favor of free trade, but a majority are against me on that. As I explained to Mr. Yerkes yesterday, we insist if we are allowed to sell that leaf tobacco throughout the West and South to the consumers direct, without the tax, to be able, possibly, to sell 18,000,000 to 20,000,000 pounds out of 80,000,000 pounds exported, that will create an active demand, and that will of necessity increase the value of the product. The farmer will get more for it. If the exporter will not give them 6 cents a pound, some one else will.

A BYSTANDER. There will be a competitor purchaser against the price?

Mr. FLACK. Yes, sir.

Mr. TAWNEY. Now, what do these people in the West and Southwest consume in the way of tobacco which you think this would displace?

Mr. FLACK. Well, a small quantity of the tobacco that is manufactured in our country they take, generally; but they take a great deal of tobacco made by the larger manufacturers, principally by the Continental Tobacco Company. That tobacco costs about 40 cents. This tobacco costs about 12 cents. The people down there chew it and smoke it, and really prefer the natural-leaf tobacco. They would buy three or four times as much, and the consumption would be much greater than the loss would be on the tobacco that is manufactured now, because it would be much more abundant. As Mr. Yerkes said a while ago, it is both chewing and smoking. Nobody can smoke manufactured plug tobacco—tobacco that is manufactured for chewing. Nobody can chew manufactured tobacco that is manufactured for smoking. If a man will experiment on it he will see that that is so. [Laughter.]

Mr. YERKES. But the home twist can be both chewed and smoked?

Mr. FLACK. Oh, yes. There is no adulteration about it.

Mr. GAINES. What is put into the manufacture of twist?

Mr. FLACK. Glucose, and licorice, and salt, and molasses, and sugar—depending on what the color is that you want. You can make a muck of it, if you want. [Laughter.]

Mr. WASHINGTON. That is plain twist with no sugar or alcohol on it [holding up a specimen].

Mr. FLACK. Oh, of course, if you treat it and put it in warm water you can make a cigar from it; that is, the natural leaf. But you can not make a cigar out of manufactured tobacco.

We honestly believe if we were allowed to sell this natural tobacco down there that the consumption would be three times as much as it is now.

Mr. STANLEY. Mr. Flack, I wish you would state about the additional cost that comes in from the sacks.

Mr. FLACK. The price is about 6 cents a pound, and it costs about 4 cents a pound for the sacks, making about 10 cents a pound on smoking tobacco.

STATEMENT OF MR. JOSEPH E. WASHINGTON, FORMER REPRESENTATIVE FROM TENNESSEE.

Mr. WASHINGTON. I will not take up much of your time, gentlemen, but I want to speak from the standpoint of a tobacco grower, representing Robertson County. I brought these samples here to show what homespun tobacco is [exhibiting specimens]. That is a hand-twist product [indicating], made from that natural leaf [indicating], with the stems first pulled out. The leaves are then taken, after they are stemmed and twisted, and that leaves the sides of the leaves. Those are put together and twisted into this shape [indicating], and then they are ready for consumption—in a crude way, of course—and to be used only by people who can stand a very strong tobacco.

If we could have all that we would like in this matter we would ask for free trade in all this tobacco; not that we want to deprive the Government of any revenue, but we know if we should get that privilege we would perhaps deprive it of a considerable amount of revenue. But we want an opening for our surplus tobacco, so to speak.

The amount of tobacco produced annually has largely increased in the last few years, perhaps more than the population and consumption, but not to such an extent as alone would warrant the present condition in this tobacco business in our territory. I speak of the region in southern Kentucky and northern Tennessee. In that dark-tobacco district I think we are suffering more than in any other section, for the reason that in other sections they produce a tobacco that is more largely purchased for the home manufacturers in making plug tobacco and cigars.

About 80 per cent of our tobacco goes abroad. Up to within the last three years we had a good deal of competition in the sale of our tobacco. But there are five countries now in Europe where they get a revenue, which they call the rigi, from a monopoly of tobacco by the Crown. Those Governments, through their agents, buy up the tobacco in this country, and it is then taken to France, and Spain, and Austria, and Italy, and Germany, and there resold by those Governments. I am not familiar with the exact amount of revenue which they derive from that per pound, but I should say it is anywhere from 50 to 75 cents a pound.

Mr. FLOOD, of Virginia. In France the manufacturers sell the manufactured products.

Mr. SWANSON, of Virginia. No; in France, you can not buy a cigar except at a Government store. The same is also the case in Spain.

Mr. WASHINGTON. Seventy-five or 80 per cent of our tobacco goes into those foreign countries. The balance we must make use of at home. Here is the way the combination has worked: Within the last three years the rigi have allowed their contracts to fall into the hands of two syndicates, who agree to furnish this tobacco, and agree, in advance, before it is planted, to have it furnished at an average, say, of 8 cents a pound.

They send their agents right into the country and come to the farmer's barn and divide a county into sections or strips and take an agent and allot to him 3,000,000 or 5,000,000 pounds in orders. The combination owns the American and the Continental companies.

They crushed out the smaller manufacturers who used to go into our county at Clarksville and Hopkinsville. Now the American Tobacco Company, for instance, will have one agent in the county.

The American Tobacco Company has gone further and forced the manufacturers of Great Britain, under the name of the Imperial Tobacco Company, to enter into their combination with them.

Formerly the English market was a good one, and we had some of their buyers in our county who bought for the English concerns. Now, if the American company has an agent in our county, the Imperial company does not send an agent there. We are absolutely at the mercy of this combine. They price our tobacco in the barn, and, to a certain extent, in the field, before it is planted, and if we do not take what they offer we have no place else to go.

We are now content to modify our demands, because of the probable interference with the revenue, but we ask Congress to give us the right to have free trade in leaf. I do not find fault with the restrictions imposed by the Internal-Revenue Office in regard to the revenue from this tobacco. But let the farmer have the right to put his tobacco in any size package he pleases and ship it anywhere he pleases and sell it to the merchants, and let the merchants put it into use without paying any tax. In that way, I believe, we may open up a market anywhere from 5,000,000 to 20,000,000 pounds in the Clarksville district. We raise from 80,000,000 to 90,000,000 pounds.

Of course, I readily admit that if we put 10,000,000 pounds the first year into consumption we would displace nearly an equivalent amount of manufactured tobacco and the Government would lose that revenue. But the Government could afford to lose that revenue if the measure enacted afforded relief to this "dark district," and you could also give it to North Carolina and Virginia.

Mr. FLOOD, of Virginia. In the counties I represent in Virginia the tobacco products are sold almost entirely to Austria and Italy. These concerns now have one instead of several men to buy for them. Tobacco has gone down to 4 cents.

Mr. COOPER, of Texas. You think if you had free trade you would increase the market for the producer and reduce the price to the consumer and not lose any great amount of revenue to the Government?

Mr. WASHINGTON. Oh, it would be a reduction of revenue.

Mr. RHEA. The system in vogue is the same in your territory as mine. We live close together there.

Mr. WASHINGTON. Yes; just across the line.

Mr. RHEA. You may be restricted to sell only to an agent who buys at Springville, and the farmers right around me may be restricted to sell to the agent at Russellville, Ky.—that is, if my farm is 3 miles from Russellville I can not sell in Amherst, but am restricted to an absolute sale at Russellville.

Mr. WASHINGTON. I think you are quite correct. The buyer is ordered, of course, by his employer to buy the tobacco at an average price stated. He may say 6 or 7 cents a pound, and he is given his own territory, and another buyer is given his particular territory in the same way. They will not cross the line. They are agents of the same man.

Mr. TAWNEY. That branch of the question has been gone over very fully. The principal thing I would like to know is the extent to which that would enlarge the domestic market for the sale of your tobacco.

Mr. WASHINGTON. I do not believe it would come with a great bound. I believe we would have to build up that trade.

Mr. SWANSON, of Virginia. Do you not think the revenue would not be as much as was anticipated, from the fact that if the farmers had

this privilege of shipping to the merchants and others the manufacturers would come and buy it from them, and buy it at a better price, rather than allow them to exercise that privilege? Consequently, if they did not give you a reasonable price you could exercise the privilege, so that the Government would not lose as much revenue as would be expected on account of the fact that the farmer would have that privilege.

Mr. WASHINGTON. I believe, too, that the market would not be so great, but the relief would be considerable and it would enhance the price of the tobacco in the hands of the planter where he availed of the privilege of shipping it into Louisiana or the Southwest, and the fact that he had that privilege and that outlet for his overflow product would enable him to get a higher price.

Mr. SWANSON, of Virginia. If the manufacturer would come to you and try to buy at $3 a hundred you would say, "I will not take $3; I will sell if you will pay me $7 or $8, and unless you do that I will sell to the consumer direct;" and that would induce the manufacturer to give you a reasonable price, would it not?

Mr. STANLEY. That would be true of the twist, too.

Mr. HILL. I think it would not be true of either of them. The trust would control it all, just as it does now.

Mr. GILBERT, of Kentucky. Is not anybody here from the White Burley region?

Mr. HILL. You can not do it this year alone.

Mr. WASHINGTON. No: you must do it every year. There are men in my county now who have been complying with the revenue law, and manage at the same time to get a fair price. We believe at present that is the only thing to give us relief in the price for our tobacco, and the Government would not lose a great amount of revenue. If there are any other questions, I would be glad to answer them.

The CHAIRMAN. Are there any questions?

Mr. STANLEY. Is it not true that for the last five or six or seven years the production of dark tobacco has not kept pace in this country at all with the increase of the production of wheat, corn, beef, or pork, and yet those articles are produced all over the world, while this tobacco is almost entirely the product of America?

Mr. WASHINGTON. Yes. While I conceded that the production of tobacco has increased, I did not think it had very largely outstripped the increase in consumption. I think the trouble with us, as regards the price, has been the result of combinations between buyers and manufacturers—those who have to take the tobacco off our hands.

Mr. TAWNEY. Rather than the revenue laws?

Mr. WASHINGTON. I do not think 12 cents a pound of tax would affect the price to the producer.

Mr. STANLEY. The revenue laws simply produce a condition.

Mr. WASHINGTON. As to an export tax, the courts have decided that the stamping of tobacco is a police provision. We could not for a moment attempt to place an imposition of export tax on tobacco.

The CHAIRMAN. We are much obliged to you, Mr. Washington.

Mr. GAINES. If you will give the growers free trade, as the first section of this bill of mine provides, and give them the right to deal through agents——

Mr. STANLEY. And also the bill of Mr. Stanley——

Mr. GAINES. Any bill. I do not care anything about the Gaines *bill or Bill Jones's* bill or anybody's bill. If you will let the farmer

deal through his agent—a right he has not now—and give him free trade in leaf tobacco they will be greatly aided. They will be glad to get even that.

The CHAIRMAN. We understand that, Mr. Gaines.

Mr. GAINES. If you will let any person deal thus without tax or license that will give him freedom of action, and if you will let a man sell his growing crop in his field without restriction that will restore the liberty and right of the grower. Free trade and the law of agents restored is what they will now compromise on, though they want to hand twist.

Mr. FLACK. I think perhaps, in my hurry, I said I was the buyer for the Austrian Government. I am the buyer for the agent of the Austrian Government.

The CHAIRMAN. The time for concluding the hearing has arrived.

Thereupon, at 12 o'clock noon, the hearing was concluded, and the subcommittee went into executive session.

APPENDIX.

Memorandum submitted by Mr. Gaines. (*See p. 47.*)

This second paragraph (sec. 69, act Aug. 28, 1894) excepts the grower, with his growth of tobacco, but it burdens the tobacco he grows and his purchaser who sells to consumers, and hence taxes the grower indirectly at least.

The law (as thus construed) says "changing the tobacco from its natural condition" is manufacturing; the article so changed is manufactured, and "every person is regarded as a manufacturer" who makes this change "in any manner" (except the change wrought by the usual way of curing).

So the farmers can not change the natural condition of his own growth of tobacco, except for his own personal use, without becoming a manufacturer and subject to a tax of 6 cents per pound. The grower can not twist or stem or change his leaf tobacco in any manner for sale or gift without paying this tax.

Under the second paragraph of section 69 Commissioner Yerkes says "every person" (except growers with their own growth and raising) "is regarded as a manufacturer of tobacco who sells and delivers leaf tobacco in its natural condition to—

"1. Consumers.

"2. Or to persons other than (*a*) registered dealers in leaf tobacco, (*b*) manufacturers of tobacco or cigars, or (*c*) persons who buy leaf tobacco in packages for export.

"3. And all leaf tobacco sold by such person is regarded as manufactured tobacco, (*d*) subject to tax."

So that under this law "every person" (except the grower, as stated) who sells leaf tobacco is "subject to a tax," unless it is sold to three classes of buyers, to wit:

1. Registered dealers in leaf.
2. Manufacturers of tobacco or cigars.
3. Exporters of leaf tobacco in packages.

If the grower employs a commission agent, that agent must sell to those three and no more, while the grower can sell to anyone and everyone. The law of agency is thus restricted and hardships follow.

APPEAL TO CONGRESS BY THE TOBACCO GROWERS OF TENNESSEE.

CEDAR HILL, TENN., *February 22, 1904.*

Hon. JNO. W. GAINES, M. C.,
Washington, D. C.

SIR: The Association of Tobacco Raisers of Robertson County, Tenn., in convention assembled, at the court-house in Springfield, February 20, 1904, adopted the inclosed resolutions, which we kindly ask you, as our Representative in Congress, to present to that honorable body and to the subcommittee of the Ways and Means

Committee of the House which has under consideration all bills for the relief of the tobacco growers. We wish to be conservative in our demands and do not wish or desire to deplete the revenues, but we do wish simply that relief which free trade in leaf tobacco would give us and that competition which the selling of our tobacco would bring us, when the war tax of 6 cents per pound is repealed. Hence we do not ask to stem and twist our tobacco, but simply that leaf tobacco may be, by all persons, bought and sold without the payment of any tax whatever. And this we will ever pray will be granted, as this will open up a market for us in the Gulf and the great Western States in competition with the combines of the tobacco trusts of both Europe and America.

Whereas the tobacco growers in the Clarksville tobacco district are in the hands and practically under the control of the tobacco trusts and combines and with the existing laws and surroundings are utterly helpless, and the tobacco crop is now largely in the hands of the planter and he is unable to sell except to the trusts and combines at ruinously low prices, and said trusts and combines have succeeded in driving competition out of the field, and no one is in position to buy the tobacco except the trusts and combines; therefore,

Be it resolved by the farmers of Robertson County assembled. That we appeal to the Congress of the United States for relief and ask that the tax be taken off of leaf tobacco so as to give absolute free trade in leaf tobacco, and we insist that this be done in order to open up new markets and furnish new buyers for the tobacco growers of the Clarksville tobacco district. And owing to the urgency of the situation we ask that this relief be given at once.

CHAS. H. FORT, *President.*
JNO. M. FOSTER, *Secretary.*

FEBRUARY 28, 1903.

E. C. LOVE, ESQ., *Alone, Ky.*[a]

SIR: In reply to your letter dated 25th instant you are advised that a farmer or grower of tobacco may sell leaf tobacco of his own growth and raising and that received from tenants as rent, without restriction as to the quantity sold, the place of sale, or the business of the person who buys the tobacco.

This privilege that a farmer has of selling his tobacco without restriction is a personal one which he can not delegate to another person, except that he may place his tobacco in the hands of a registered dealer in leaf tobacco who may sell the same to other registered dealers in leaf tobacco or to manufacturers of tobacco or cigars or to persons who buy leaf tobacco in packages for export exclusively.

A farmer is not privileged to stem, twist, roll, plait, sweeten, or otherwise change his tobacco from the condition in which it was cured on the farm, for the purpose of selling the same to consumers, as all tobacco so manipulated is regarded as manufactured tobacco and subject to tax of 6 cents per pound, and must be put up by the person who buys or who receives it from the farmer, or put up in packages by the farmer himself, if it is so changed or manipulated, if intended for sale to consumers in packages containing 10, 20, 40, or 50 pounds of tobacco properly labeled and stamped as provided by regulations No. 8, pages 5 and 6, a copy of which is inclosed to your address, under a separate cover, for your information.

Respectfully,

———,
Commissioner.

Petition favoring Trimble bill (H. R. 3574).

[Filed by Mr. Gaines. See p. 47.]

To the Senate and House of Representatives of the United States of America:

Whereas the majority of the tobacco manufacturers of the United States have been merged into a monster combination popularly known as the tobacco trust;

Whereas by reason of said consolidation competition has been destroyed and the trust arbitrarily fixes the value of leaf tobacco at a price which is impoverishing the farmers and growers;

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[a] This is a copy of a letter (issued by the Commissioner of Internal Revenue to Mr. *Love) sent to* Mr. Gaines by error.—YERKES.

Whereas Hon. South Trimble, of the Seventh Kentucky district, has offered in Congress, H. R. 3574, "A bill for the relief of farmers and tobacco growers of the United States," which provides that the farmer and grower of tobacco shall have the right to sell tobacco in the raw and unadulterated state, of their own growth, free from tax;

Whereas we believe that if such bill becomes a law it will insure just and equitable prices to both grower and consumer:

Therefore we, the undersigned citizens of ——— County, State of ———, most respectfully urge the passage of said bill.

[The above petition was signed by 729 citizens of Caldwell County, Ky., and 95 citizens of Trigg County, Ky.].

Another petition filed by Mr. Gaines. (*See p. 47.*)

We, the undersigned farmers and merchants, dealers in and growers of tobacco, being citizens of Caldwell County, Ky., realizing that we are dependent upon the growth and cultivation of tobacco for the support of our families, and tobacco is now and has for several years been selling below the cost of production, the result of which has caused distress and poverty to stalk broadcast over the entire tobacco district.

We believe the internal-revenue tax of 6 cents per hundred to be unwarranted and is an unjust discrimination against this particular product, inasmuch as no other agricultural product bears similar tax.

And furthermore we believe the said tax enables the trust to control and dictate the price of leaf tobacco.

Therefore we earnestly petition and pray the Congress of the United States to so amend the internal-revenue laws as to permit any person (farmer, merchant, and dealer) to sell leaf tobacco in any quantity to consumers free of any tax whatever.

[The above was signed by 24 citizens.]

Bills under consideration.

[By Mr. Gaines. H. R. 4482.]

A BILL For the relief of tobacco growers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any person to buy and sell tobacco unstemmed and in the leaf without license or the payment of any tax of any kind.

SEC. 2. That it shall be lawful for any grower of tobacco to sell his own product, or to deliver to another person any tobacco grown by himself to be by such person carried to market and sold for the benefit of the grower, any tobacco grown by such planter, in the hand or in the leaf, or stemmed, or stemmed and hand twisted, or stemmed and hand pressed, or hand twisted, or hand pressed, without license and without the payment of any tax of any kind: *Provided,* That such planter shall furnish to the person by whom he sends it to market or offers it for sale a written authorization for that particular transaction, specifying the number of pounds.

[By Mr. Stanley. H. R. 9870.]

A BILL For the relief of farmers and tobacco growers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That farmers and growers of tobacco shall hereafter have the right to sell in the raw and unadulterated state all tobacco of their own growth or cultivated upon their own lands, or to hand-stem and twist the same or manufacture it into any form desired; and the same shall, when sold by the producer thereof, be exempted from any tax or charge of any kind whatsoever or other statutory regulation on the part of the United States.

SEC. 2. That the tobacco mentioned herein, when hand-stemmed and twisted in the form of long green or what is known as Lincoln twist, namely, when the natural leaf is hand-stemmed and made into a twist, without other change or process of manufacture, that this tobacco thus manufactured by the person or producing the same shall be exempt from any tax or license whatsoever, not only in the hands of the farmer or producer, but shall thereafter be liable to no tax or license whatsoever in the hands of subsequent purchasers, so long as it remains in the form of said twist and without further process of manufacture.

SEC. 3. That all statutes in conflict herewith are hereby repealed.

[By Mr. Stanley. H. R. 10857.]

A BILL For the relief of farmers, merchants, and other dealers in leaf tobacco

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That tobacco in the natural leaf that is in an unstemmed condition and not manufactured or altered in any manner so as to change the condition in which it is put upon the market by the producer, when in the natural leaf, as before described, this tobacco shall not be subject to any internal-revenue tax, charge, or regulation of any kind whatsoever on the part of the Government of the United States.

SEC. 2. That all statutes imposing any tax of any kind whatsoever on tobacco in the natural leaf or in conflict with any provision of this bill are hereby repealed.

[By Mr. Trimble. H. R. 3574.]

A BILL For the relief of the farmers and tobacco growers of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That farmers and growers of tobacco shall hereafter have the right to sell tobacco in the raw or unadulterated, of their own growth, in any quantity, either in the leaf, twist, or such other form as they may wish, free from any tax or charge, or being in any manner subject to any statutory regulation on the part of the Government of the United States. All statutes in conflict herewith are hereby repealed.

[By Mr. Hopkins. H. R. 1971.]

A BILL To allow the growers of leaf tobacco to stem, twist, and sell the same without paying tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the growers of leaf tobacco to stem, twist, and sell their own product without the payment of the tax now required of manufacturers of the same under existing laws.

O

60TH CONGRESS } SENATE { DOCUMENT
1st Session } { No. 406

Special Message

OF THE

PRESIDENT OF THE UNITED STATES

COMMUNICATED TO THE

TWO HOUSES OF CONGRESS

ON

March 25, 1908

(First Session of the Sixtieth Congress)

MARCH 25, 1908.—Read; ordered to lie on the table and to be printed

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WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

MESSAGE.

To the Senate and House of Representatives:

I call your attention to certain measures as to which I think there should be action by the Congress before the close of the present session. There is ample time for their consideration. As regards most if not all of the matters, bills have been introduced into one or the other of the two Houses, and it is not too much to hope that action will be taken one way or the other on these bills at the present session. In my message at the opening of the present session, and, indeed, in various messages to previous Congresses, I have repeatedly suggested action on most of these measures.

Child labor should be prohibited throughout the Nation. At least a model child-labor bill should be passed for the District of Columbia. It is unfortunate that in the one place solely dependent upon Congress for its legislation there should be no law whatever to protect children by forbidding or regulating their labor.

I renew my recommendation for the immediate reenactment of an employers' liability law, drawn to conform to the recent decision of the Supreme Court. Within the limits indicated by the court, the law should be made thorough and comprehensive, and the protection it affords should embrace every class of employee to which the power of the Congress can extend.

In addition to a liability law protecting the employees of common carriers, the Government should show its good faith by enacting a further law giving compensation to its own employees for injury or death incurred in its service. It is a reproach to us as a Nation that in both Federal and State legislation we have afforded less protection to public and private employees than any other industrial country of the world.

I also urge that action be taken along the line of the recommendations I have already made concerning injunctions in labor disputes. No temporary restraining order should be issued by any

court without notice; and the petition for a permanent injunction upon which such temporary restraining order has been issued should be heard by the court issuing the same within a reasonable time—say, not to exceed a week or thereabouts from the date when the order was issued. It is worth considering whether it would not give greater popular confidence in the impartiality of sentences for contempt if it was required that the issue should be decided by another judge than the one issuing the injunction, except where the contempt is committed in the presence of the court, or in other case of urgency.

I again call attention to the urgent need of amending the interstate-commerce law and especially the antitrust law along the lines indicated in my last message. The interstate-commerce law should be amended so as to give railroads the right to make traffic agreements, subject to these agreements being approved by the Interstate Commerce Commission and published in all of their details. The Commission should also be given the power to make public and to pass upon the issuance of all securities hereafter issued by railroads doing an interstate-commerce business.

A law should be passed providing in effect that when a Federal court determines to place a common carrier or other public utility concern under the control of a receivership, the Attorney-General should have the right to nominate at least one of the receivers; or else in some other way the interests of the stockholders should be consulted, so that the management may not be wholly redelivered to the man or men the failure of whose policy may have necessitated the creation of the receivership. Receiverships should be used, not to operate roads, but as speedily as possible to pay their debts and return them to the proper owners.

In addition to the reasons I have already urged on your attention, it has now become important that there should be an amendment of the antitrust law, because of the uncertainty as to how this law affects combinations among labor men and farmers, if the combination has any tendency to restrict interstate commerce. All of these combinations, if and while existing for and engaged in the promotion of innocent and proper purposes, should be recognized as legal. As I have repeatedly pointed out, this antitrust law was a most unwisely drawn statute. It was perhaps inevitable that in feeling after the right remedy the first attempts to provide such should be crude; and it was absolutely imperative that some legislation should be passed to control, in the interest of the public, the business use of

the enormous aggregations of corporate wealth that are so marked a feature of the modern industrial world. But the present antitrust law, in its construction and working, has exemplified only too well the kind of legislation which, under the guise of being thoroughgoing, is drawn up in such sweeping form as to become either ineffective or else mischievous.

In the modern industrial world combinations are absolutely necessary; they are necessary among business men, they are necessary among laboring men, they are becoming more and more necessary among farmers. Some of these combinations are among the most powerful of all instruments for wrongdoing. Others offer the only effective way of meeting actual business needs. It is mischievous and unwholesome to keep upon the statute books unmodified a law, like the antitrust law, which, while in practice only partially effective against vicious combinations, has nevertheless in theory been construed so as sweepingly to prohibit every combination for the transaction of modern business. Some real good has resulted from this law. But the time has come when it is imperative to modify it. Such modification is urgently needed for the sake of the business men of the country, for the sake of the wage-workers, and for the sake of the farmers. The Congress can not afford to leave it on the statute books in its present shape.

It has now become uncertain how far this law may involve all labor organizations and farmers' organizations, as well as all business organizations, in conflict with the law; or, if we secure literal compliance with the law, how far it may result in the destruction of the organizations necessary for the transaction of modern business, as well as of all labor organizations and farmers' organizations, completely check the wise movement for securing business cooperation among farmers, and put back half a century the progress of the movement for the betterment of labor. A bill has been presented in the Congress to remedy this situation. Some such measure as this bill is needed in the interest of all engaged in the industries which are essential to the country's well-being. I do not pretend to say the exact shape that the bill should take, and the suggestions I have to offer are tentative; and my views would apply equally to any other measure which would achieve the desired end. Bearing this in mind, I would suggest, merely tentatively, the following changes in the law:

The substantive part of the antitrust law should remain as at present; that is, every contract in restraint of trade or commerce

among the several States or with foreign nations should continue to be declared illegal; provided, however, that some proper governmental authority (such as the Commissioner of Corporations acting under the Secretary of Commerce and Labor) be allowed to pass on any such contracts. Probably the best method of providing for this would be to enact that any contract, subject to the prohibition contained in the antitrust law, into which it was desired to enter, might be filed with the Bureau of Corporations or other appropriate executive body. This would provide publicity. Within, say, sixty days of the filing—which period could be extended by order of the Department whenever for any reason it did not give the Department sufficient time for a thorough examination—the executive department having power might forbid the contract, which would then become subject to the provisions of the antitrust law, if at all in restraint of trade.

If no such prohibition was issued, the contract would then only be liable to attack on the ground that it constituted an unreasonable restraint of trade. Whenever the period of filing had passed without any such prohibition, the contracts or combinations could be disapproved or forbidden only after notice and hearing with a reasonable provision for summary review on appeal by the courts. Labor organizations, farmers' organizations, and other organizations not organized for purposes of profit, should be allowed to register under the law by giving the location of the head office, the charter and by-laws, and the names and addresses of their principal officers. In the interest of all these organizations—business, labor, and farmers' organizations alike—the present provision permitting the recovery of threefold damages should be abolished, and as a substitute therefor the right of recovery allowed for should be only the damages sustained by the plaintiff and the cost of suit, including a reasonable attorney's fee.

The law should not affect pending suits; a short statute of limitations should be provided, so far as the past is concerned, not to exceed a year. Moreover, and even more in the interest of labor than of business combinations, all such suits brought for causes of action heretofore occurred should be brought only if the contract or combination complained of was unfair or unreasonable. It may be well to remember that all of the suits hitherto brought by the Government under the antitrust law have been in cases where the combination or contract was in fact unfair, unreasonable, and against the public interest.

It is important that we should encourage trade agreements between employer and employee where they are just and fair. A strike is a clumsy weapon for righting wrongs done to labor, and we should extend, so far as possible, the process of conciliation and arbitration as a substitute for strikes. Moreover, violence, disorder, and coercion, when committed in connection with strikes, should be as promptly and as sternly repressed as when committed in any other connection. But strikes themselves are, and should be, recognized to be entirely legal. Combinations of workingmen have a peculiar reason for their existence. The very wealthy individual employer, and still more the very wealthy corporation, stand at an enormous advantage when compared to the individual workingman; and while there are many cases where it may not be necessary for laborers to form a union, in many other cases it is indispensable, for otherwise the thousands of small units, the thousands of individual workingmen, will be left helpless in their dealings with the one big unit, the big individual or corporate employer.

Twenty-two years ago, by the act of June 29, 1886, trades unions were recognized by law, and the right of laboring people to combine for all lawful purposes was formally recognized, this right including combination for mutual protection and benefits, the regulation of wages, hours and conditions of labor, and the protection of the individual rights of the workmen in the prosecution of their trade or trades; and in the act of June 1, 1898, strikes were recognized as legal in the same provision that forbade participation in or instigation of force or violence against persons or property, or the attempt to prevent others from working, by violence, threat, or intimidation. The business man must be protected in person and property, and so must the farmer and the wageworker; and as regards all alike, the right of peaceful combination for all lawful purposes should be explicitly recognized.

The right of employers to combine and contract with one another and with their employees should be explicitly recognized; and so should the right of the employees to combine and to contract with one another and with the employers, and to seek peaceably to persuade others to accept their views, and to strike for the purpose of peaceably obtaining from employers satisfactory terms for their labor. Nothing should be done to legalize either a blacklist or a boycott that would be illegal at common law; this being the type of boycott defined and condemned by the Anthracite Strike Commission.

The question of financial legislation is now receiving such attention in both Houses that we have a right to expect action before the close of the session. It is urgently necessary that there should be such action. Moreover, action should be taken to establish postal savings banks. These postal savings banks are imperatively needed for the benefit of the wageworkers and men of small means, and will be a valuable adjunct to our whole financial system.

The time has come when we should prepare for a revision of the tariff. This should be, and indeed must be, preceded by careful investigation. It is peculiarly the province of the Congress and not of the President, and indeed peculiarly the province of the House of Representatives, to originate a tariff bill and to determine upon its terms; and this I fully realize. Yet it seems to me that before the close of this session provision should be made for collecting full material which will enable the Congress elected next fall to act immediately after it comes into existence. This would necessitate some action by the Congress at its present session, perhaps in the shape of directing the proper committee to gather the necessary information, both through the committee itself and through Government agents who should report to the committee and should lay before it the facts which would permit it to act with prompt and intelligent fairness. These Government agents, if it is not deemed wise to appoint individuals from outside the public service, might with advantage be members of the Executive Departments, designated by the President, on his own motion or on the request of the committee, to act with it.

I am of the opinion, however, that one change in the tariff could with advantage be made forthwith. Our forests need every protection, and one method of protecting them would be to put upon the free list wood pulp, with a corresponding reduction upon paper made from wood pulp, when they come from any country that does not put an export duty upon them.

Ample provision should be made for a permanent Waterways Commission, with whatever power is required to make it effective. The reasonable expectation of the people will not be met unless the Congress provides at this session for the beginning and prosecution of the actual work of waterway improvement and control. The Congress should recognize in fullest fashion the fact that the subject of the conservation of our natural resources, with which this Commission deals, is literally vital for the future of the Nation.

Numerous bills granting water-power rights on navigable streams have been introduced. None of them give the Government the right to make a reasonable charge for the valuable privileges so granted, in spite of the fact that these water-power privileges are equivalent to many thousands of acres of the best coal lands for their production of power. Nor is any definite time limit set, as should always be done in such cases. I shall be obliged hereafter, in accordance with the policy stated in a recent message, to veto any water-power bill which does not provide for a time limit and for the right of the President or of the Secretary concerned to fix and collect such a charge as he may find to be just and reasonable in each case.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 25, 1908.*

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60TH CONGRESS, 1st Session } SENATE { DOCUMENT No. 428

CREATION OF A VOLUNTEER RETIRED LIST ROLL

Letter from the Executive Committee of the Volunteer Retired List relative to the creation in the War Department of a roll to be known as the Volunteer Retired List Roll, with resolutions of the legislatures of Illinois, Ohio, and New York indorsing the same, with estimates of costs

APRIL 9, 1908

Referred to the Committee on Military Affairs and ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

VOLUNTEER RETIRED LIST.

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CREATION OF A VOLUNTEER RETIRED LIST ROLL.

WASHINGTON, D. C., *April 9, 1908.*

DEAR SIR: Referring to Senate bill 1676, to create in the War Department a roll to be known as the "Volunteer retired list," to authorize placing thereon with retired pay certain surviving officers of the United States Volunteer Army of the civil war, and for other purposes, introduced by yourself December 9, 1907, and now pending before the Committee on Military Affairs of the Senate, it is recognized that the cost of the proposed measure is a question upon which both Houses of Congress desire the fullest possible information.

On February 20, 1908, Hon. J. A. T. Hull, chairman of the Committee on Military Affairs of the House of Representatives, referred H. R. 6288 and H. R. 16645 to the honorable Secretary of War for "the most accurate estimate obtainable as to the cost of each of these bills, providing they are enacted into law."

It will be noted that H. R. 6288 as introduced in the House was identical in terms with your bill, but that it had been amended in committee, fixing the term of service at eighteen months and the maximum retired pay at one-half the pay of a captain of cavalry.

It is the report of the War Department on this bill which we propose to examine and discuss.

On February 29 the report of the War Department was forwarded to Chairman Hull. We are sending you herewith a printed copy of said report for your examination.

You will observe on page 5 that the statement is broadly made that there is no data compiled in the War Department from which the probable number of the surviving officers of volunteers of the Union Army can be obtained.

It must be understood that since the mustering out of the Volunteer Army at the close of the civil war the War Department has not been in official touch with the officers and enlisted men composing the volunteer forces who served in the great war for the preservation of the Union. There is no record kept in the War Department of the death and burial either of officers or enlisted men of that great Volunteer Army.

Whatever data the War Department uses in regard to the death list of officers and soldiers who served during the civil war is obtained from the reports of the Bureau of Pensions, and these reports do not give the number of officers who have died separate from the enlisted men, so that the Government has no official data whatever as to the number of officers of volunteers of the Union Army now surviving. It is regrettable that the Adjutant-General of the Army has to admit his inability to give any accurate information upon this subject. The Adjutant-General in his report upon H. R. 6288 refers to the report he made January 27, 1907, upon the original Dawes

bill (H. R. 24544), in which he stated that it had been estimated in his office "that there were approximately 125,000 commissioned officers in service in the Volunteer Army during the civil war," and that "it does not seem unreasonable to assume that about 25 per cent of the volunteer commissioned officers of the Army, or about 31,250, will be surviving June 30, 1908." That of these 18,750 would have served eighteen months, and therefore be eligible under the terms of H. R. 6288 as amended; and that the cost of the bill, less the pensions, "will exceed $13,000,000."

When the estimate of the War Department of January 27, 1907, was made, fixing the number of volunteer officers who would be surviving June 30, 1908, at 31,250, General Raum, of our committee, addressed a letter to Chairman Hull, presenting certain facts bearing upon this subject. He pointed out that the bill contemplated the recognition of long, actual service, and that the great majority of the officers who would be eligible to the provisions of the bill had served in the long-term regiments.

We quote below certain statements made in said letter, which bear directly on the question and to which we invite special attention:

The records of the War Department show the number of men called for from time to time by the President and the length of service for which these men were enlisted. These figures have been collated into tables and published by authority. They show that there were 1,665,940 officers and men enlisted in the various States and mustered into the service of the United States for a term of three years, and that 30,950 men were enlisted for a term of two years, making a total of 1,696,890 officers and men, the length of service of whose officers may have qualified them for eligibility for retirement under said bill.

These published records, however, do not state the number of regiments into which this vast body of men were divided, and thus give a clue to the probable number of officers required. The War Dapertment records no doubt contain the necessary facts, but they are not easily accessible, consequently it is necessary to look to other sources for information.

During the continuance of the civil war it was the settled policy of the War Department and of the State authorities to keep the number of men in the long-term regiments up to the maximum as nearly as possible. In some cases new companies were raised for certain regiments, but in most cases the depleted ranks of the companies were filled by securing recruits. The reports of the adjutant-generals of the various States present the question in a clear light. It is perfectly safe to say that there was not one regiment in a hundred of three years' service in any of the States that did not receive large numbers of recruits. I have before me the eight volumes of these reports for Illinois. These books open up a mine of interest on this subject. Beginning with the Seventh Regiment, which was the number of the first three years' regiment from Illinois, it is found three new companies—C, D, and G—were recruited and mustered into this regiment. The Eighth Illinois Infantry received 949 recruits; the Eleventh Illinois had a total of 1,932 officers and men; the Thirty-first Illinois 870 recruits, and so through the whole list of three-year regiments.

The same system prevailed in all the Northern States. I have information from Col. and Bvt. Brig. Gen. James Stuart, jr., who commanded the Ninth New Jersey Infantry, that during its service it had 2,770 enlisted men besides commissioned officers.

Upon the information I have obtained I venture the statement that there were no more than 1,200 regiments under whose banner these long-service men marched. Each of these regiments was entitled to 36 officers, which makes a grand total of 43,200 officers for these 1,200 regiments.

Upon due consideration of this subject we are satisfied that there is a great error lying at the base of the calculation of the Adjutant-General. He stated in his report:

It has been estimated by this office that there were approximately 125,000 commissioned officers in service in the Volunteer Army during the civil war.

This is simply an estimate, an approximation. It is not based upon data secured by an examination of the muster rolls.

Those officers who had long personal experience in the Volunteer Army know that many officers held during their service two, three, and sometimes as many as five commisisons.

Many officers were mustered out of the service with short-term regiments, and were soon commissioned in other regiments.

It is highly probable that 125,000 commissions were issued to officers of volunteer regiments, but we are fully satisfied that the individuals who were commissioned fell far short of that number.

We know that of the 120 major-generals of volunteers who were living at the close of the war, July, 1865, there are now but 6 survivors, 4 of whom are on the retired list, and that of the 377 brigadier-generals living at the close of the war only 28 now survive, or less than 7 per cent of the whole. It seems unreasonable to suppose that, as there are only 7 per cent of the brigadier-generals of volunteers living, there are 25 per cent of the regimental and company officers of the veteran regiments living.

We know that the death roll in the Bureau of Pensions of officers and soldiers of the civil war from July 1, 1895, to March 31, 1908, is 350,349, beginning with 19,265 the first year of the period and increasing to 36,319 deaths for the fiscal year 1907. It is an unquestionable fact that a very large proportion of the veteran officers and soldiers of the civil war incurred incurable ailments of physical and mental strain and nervous shock, which materially shortened their days.

The introduction of the volunteer retired list measure in the Fifty-ninth Congress attracted the favorable attention of surviving volunteer officers throughout the country.

The consideration of the original bill by the Committee on Military Affairs of the House resulted in the introduction by Mr. Dawes January 18, 1907, of H. R. 24544, which provided for the retirement of officers of volunteers of every grade who had served with credit one year in the field with troops. A well-organized movement was at once set on foot to communicate with every surviving volunteer officer in the United States. A general committee was formed for correspondence and the circulation of documents and blank petitions. State and local committees were organized for the purpose of distributing documents and securing the signatures of surviving officers to petitions to Congress in behalf of the proposed legislation.

Many editorial articles referring to the measure appeared in leading newspapers throughout the country, and the fact that this measure was being urged upon Congress became widely known.

It is well known that, with very rare exceptions, the surviving volunteer officers and soldiers of the Union Army belong to one or more of the army societies. The Loyal Legion, the societies of the Army of the Tennessee, the Ohio, and the Cumberland are composed of officers only. These societies all have rosters of their members, giving their names, residence, rank, and service, and the membership of these societies, including the society of the Army of the Potomac, no doubt contains more than three-fourths of all the surviving officers of the Volunteer Army. The membership of the Grand Army of the Republic—the largest of the military organiza-

tions—the Union Veteran Union, and the Union Veteran Legion is composed of both officers and soldiers.

All of these organizations have complete rosters of their membership, giving rank and service. Besides these organizations there are many regimental societies and reunion organizations. All of these associations have their regular meetings and have an abiding interest in the welfare and prosperity of their comrades.

It is unquestionably true that among the surviving officers and soldiers of the Volunteer Army of the Union there prevails a broader and more enduring spirit of comradeship than among any other large body of men in the world.

The Grand Army of the Republic has numerous posts in every State; more than 600 posts have been organized in Illinois alone. The annual reports of the State encampments of the Grand Army of the Republic give the names and location of each post and the names of their officers.

It was with these men and these conditions that the volunteer retired list committees had to deal in their endeavor to reach the surviving officers of the Union Army. They were given access to the rosters of these societies for names and addresses, and every possible aid was afforded in the work of locating and communicating with officers. More than 600 letters were sent to the officers of the Illinois G. A. R. posts alone to obtain the names and addresses of surviving volunteer officers belonging to the posts, and of other officers who were known to reside in the neighborhood.

This work went on steadily for about one year, with the result that something less than 8,000 officers have been communicated with and their residence, rank, service, and age secured and reported to Congress. It is possible that a few have been missed.

The Adjutant-General fixes the total number of surviving volunteer officers at 31,250. If this estimate is correct, if there are actually 31,250 of these officers living, the volunteer retired list committees, after a diligent search of one year, have failed to locate and communicate with 23,250 of them. This means an average of more than 500 surviving officers of volunteers of the Union Army in each of the 46 States who are living such obscure and private lives that they are unknown to prominent citizens of their States and to their comrades of the Grand Army of the Republic and other soldiers' organizations. This, we submit, can not be credited.

The work of the volunteer retired list committees was in the nature of a census of the surviving officers of the United States Volunteer Army of the civil war. The conditions under which this work has been done must be recognized as most favorable. The manner in which the work has been done is seen upon an examination of the numerous petitions from all parts of the country. These petitions, signed by the officers in person, state their residence, their rank and service, the date of entry and discharge from service, and their age.

This census, taken in good faith, should be accepted by Congress as a close approximation of the actual number of the officers of volunteers now surviving.

It is interesting to note that, in his estimate presented to Chairman Hull, February, 1907, General Raum fixed the maximum number of eligibles under the Dawes bill at 10,000, but concluded by say-

ing: "My deliberate opinion is that the number will fall below these figures."

Since the Sixtieth Congress convened quite a number of these petitioners have died, some of whom, during the civil war, attained important rank and command. Of these, two were brevet brigadier-generals, aged 82 and 83 years, respectively. Almost half of these petitioners are over 70 years of age. Forty-two of these surviving officers who attained the rank, respectively, of major-general, brigadier-general, and brevet brigadier-general are over 80 years of age, and three of these venerable patriots are 88 years of age.

Will not these facts admonish the honorable Committee on Military Affairs of the Senate that there should be no delay in reporting a just volunteer retired list bill to the Senate and urging its enactment into law?

To state in this letter the reasons and precedents which justify the proposed legislation would seem like a twice-told tale, but the petitioners are so impressed with the wisdom and justice of this measure that they feel that the story must be repeated until their prayers have been heard.

The corner stone of the argument is this:

That the surviving officers of volunteers of the Army, Navy, and Marines of the United States, who served with credit during the civil war, are entitled to receive honors and emoluments equal to those which have been bestowed upon any officers who have served in defense of the country. It must be recognized that, in time of war, reliance has been had upon volunteers to bear the heat and burden of the conflict, and that it has always been, and will no doubt be to the end, the policy of the Government to maintain a small Regular Army.

The civil war involved the perpetuity of the Union. The Union was preserved and the national authority maintained at the end of the greatest war of the world, in which more than two millions and a quarter volunteers marched and fought under the triumphant banner of their country.

A great united people owe their repose and peace at home, their phenomenal progress and prosperity, their commercial success, and their influence abroad to the preservation of the Union.

We invite particular attention to the fact that this proposed legislation has received the approval of a very large number of prominent and influential men in various parts of the country. The petitions of these citizens are now in the hands of the military committees of the two Houses. We would be glad if you would take time to look over the petitions of citizens of your own State; your most distinguished private citizens lead in these petitions, and this is so in respect to the States that furnished the great body of the Union Army.

Public opinion favors this measure.

The legislatures of the States of Illinois, Ohio, and New York, by unanimous votes have passed resolutions endorsing this measure, and requesting the Senators and Representatives from those States to vote for the enactment of a volunteer retired-list law. Copies of these resolutions are transmitted herewith.

These three great States furnished a total of 1,021,122 men, under the various calls for volunteers, which aggregate—being reduced to a three years' standard—number 846,919 three years' men.

This shows the state of the public mind upon this question. It is a common expression with prominent men that this recognition of the services of the surviving officers of volunteers of the Union Army has been too long delayed.

The question arises: Is it wise, is it just for Congress to erect a higher standard of merit for officers of the Regular Army and Navy, who "served with credit during the civil war," than for officers of volunteers who served with equal credit during said war?

There can be but one answer. The discrimination of the legislation above referred to is obviously to the discredit of officers of volunteers and should be corrected without delay.

We point to the acts of 1828 and 1832 which granted full pay of their rank during life not to exceed the pay of a captain of the line to all the surviving officers and enlisted men of the Army, Navy, and Marines of the Revolution.

We put the question: Is the country as well able in 1908 to confer similar honors and emoluments upon her defenders of 1861 to 1865 as were bestowed upon the officers and soldiers of the Revolution in 1832?

We point to the act of 1905 providing for the retirement of Generals Hawley and Osterhaus with the rank and retired pay of brigadier-general. Are not others equally worthy of that honor?

We point to the acts of 1904, 1906, and 1907, which provide for the retirement with one grade increased rank and retired pay of every officer in the Army and Navy from second lieutenant to brigadier-general of the Army and equivalent ranks in the Navy who "served with credit during the civil war."

We put the question, Did not the officers of volunteers "serve with credit during the civil war?" If so, why shall they not receive equal treatment for equal service?

It is a well-recognized fact that the statesmen who control the legislation of the Sixtieth Congress controlled the legislation of the Fifty-eighth and Fifty-ninth Congresses, which enacted the laws just referred to of 1904, 1905, 1906, and 1907. The records of Congress show that all four of these provisions of law were enacted without any delay by placing each of them in turn on appropriation bills and enacting them into law by the unanimous consent of both Houses of Congress.

It is respectfully submitted that the surviving officers of volunteers of the Union Army now knocking at the door of Congress deserve well of their country, and that their reasonable request should be granted by the prompt enactment of the proposed volunteer retired list law.

As to the probable cost of this measure, we respectfully invite attention to the figures submitted in January of this year, and which appear in a document printed for the Military Committee of the House of Representatives, and also in Senate Document No. 216.

This estimate, you will understand, is based upon the classification of these surviving officers according to rank and age made from the facts set forth in the petitions to Congress signed by them. Following is the table:

VOLUNTEER RETIRED LIST.

Statement of a classification according to rank and age of surviving volunteer officers of the civil war eligible to the provisions of S. 1676, together with an estimate of the first year's cost of said bill.

Rank.	Number.	Retiring rate.	Age 70 and over.	Age 64 and under 70.	Total amount.
Major-general	2	$2,000	$4,000		$4,000
Brigadier-general	28	2,000	56,000		56,000
Colonel	129	2,000	258,000		258,000
Do	22	1,750		$38,500	38,500
Lieutenant-colonel	136	2,000	272,000		272,000
Do	59	1,500		88,500	88,500
Major	197	1,875	369,375		369,375
Do	112	1,250		140,000	140,000
Captain	1,377	1,350	1,439,950		1,439,950
Do	1,256	900		1,133,100	1,133,100
First lieutenant	1,026	1,125	1,154,250		1,154,250
Do	1,207	750		905,250	905,250
Second lieutenant	480	1,050	504,000		504,000
Do	686	700		480,200	480,200
Various ranks, Navy	150	1,050	157,500		157,500
Total	6,867				7,000,625
Deduct 6,867 pensions at $145.60, average pension of all rates for fiscal year 1907				$999,835	
Of the above-described officers, 3,376 are 70 years and upward, and many are 80 years of age; a number receive pensions for wounds received in battle and others by special acts of Congress. The average of these will no doubt be more than $20 per month, and thus increase the deduction of pensions to the amount of				350,000	
					1,349,835
Estimated cost of bill for those eligible to its provisions					5,651,790

There were 383 officers who signed petitions who are under 64 years of age and who are not contained in the above estimate.

We state without reservation that, in our opinion, the volunteer retired list committees of the several States have practically reported the names of all the surviving officers of volunteers. There are, no doubt, a few who have not been communicated with, but we feel sure that number is small.

The estimate of the Adjutant-General of the number of surviving officers of volunteers requires an average of 680 to each of the 46 States. This number is not to be found. The great majority have passed to the other shore.

We invite special attention to the fact that the act of April 23, 1904, fixed no limit of time as to the service during the civil war to qualify an officer of the Regular Army to retirement with increased rank and retired pay, so it has occurred that a number of officers have received this honor who performed very short service during the war.

There is a case of an officer who entered the Regular Army from West Point, and in course of time rose to the rank of colonel and was retired as a brigadier-general under the act of April 23, 1904, upon the ground that he had "served with credit during the civil war," his civil-war service having been three months and ten days as an enlisted man in a volunteer regiment, thus receiving $1,125 increased retired pay per annum in honor of this brief service.

It would seem that volunteer officers of long and valuable service during the civil war should receive at least equal consideration with this officer.

The Army Register shows that more than half of the officers promoted one grade in rank with increased retired pay under the act of April 23, 1904, first served as volunteers and entered the Regular Army after the civil war was over.

It was upon their volunteer service that the increased rank and retired pay was given.

We wish to invite particular attention to the petition of general officers presented to Congress December, 1905, and to the more complete list of generals of volunteers of the civil war whose names appear in Senate Document 489, Fifty-ninth Congress, first session. Twenty-five of these officers have died since the publication of that document.

These officers commanded army corps, divisions and brigades, and were intimately associated during the war with a great number of the surviving officers of regiments and companies whose petitions have also been presented to Congress. The entire body of surviving volunteer officers of every grade stand together in requesting Congress to speedily enact a volunteer retired list law. A great majority of these officers of every grade were of long service; they represent all the great armies; all the great campaigns, and all the great battles of the civil war; many of these officers served in the important campaigns of 1861 and 1862; a number of them were with Generals Meade and Hancock at Gettysburg, while others were with General Grant at Vicksburg and Chattanooga in 1863. In 1864, a number of these officers served under Generals Grant, Meade, and Sheridan in the great campaign against Richmond, while others served under Generals Sherman, Thomas, Hooker, Howard, Slocum, Logan, Dodge, and Blair in the Atlanta campaign. Many were with Sherman on the march to the sea, while others in General Thomas's army won the battles of Franklin and Nashville. A large number were in the field in the final campaign of 1865. Some were with General Sherman in his campaign through the Carolinas. Some were with the Twenty-third Corps when transferred by land and sea from Nashville, Tenn., to North Carolina to reinforce General Sherman's advancing columns. Many were with Generals Grant and Meade in the final movement against Richmond and the surrender of General Lee at Appomatox, and many others were at the battle of Bentonville and the surrender of General Johnson.

The war was ended!
Peace was proclaimed!
The Union was preserved!

General Grant ordered these two great armies to march to Washington. General Meade's army, 85,000 strong, and General Sherman's army of 65,000 officers and men assembled at the national capital May 22, 1865. On may 23, the Army of the Potomac, marching from Capitol Hill along Pennsylvania avenue and Fifteenth street, passed the White House and was reviewed by the President and General Grant.

On May 24, General Sherman's army, following the same line of march, were also reviewed by the President and General Grant. A mighty concourse of enthusiastic citizens welcomed these returning heroes with banners waving and every possible mark of respect and affection.

Conspicuously displayed at the national capitol in letters of gold was the motto:

The only national debt we can never pay is the debt we owe to the victorious, Union soldiers.

The great body of officers and soldiers who marched under the banner emblazoned with this sincere declaration of a grateful Government and people were volunteers.

Since those memorable days, not a line of legislation has been enacted by Congress in recognition of the services of the officers of the Volunteer Army and Navy of the civil war equivalent to the honors and emoluments which have been bestowed by law upon officers of the regular forces who served with credit during the great war for the preservation of the Union.

In behalf of these volunteer officers of the Union, we submit that an important public duty rests upon the present session of Congress, namely: To take this question up and treat these surviving volunteer officers of the civil war with the same friendly and benevolent spirit that was exhibited by the statesmen of 1828 and 1832 toward the surviving officers and soldiers of the Revolution, and the same spirit that animated the statesmen of the Fifty-eighth and Fifty-ninth Congresses in their treatment of officers of the Regular Army and Navy who served with credit during the civil war.

We have abiding faith that if this bill is duly submitted to the Senate and brought to a vote, that it will pass that great legislative body without serious opposition.

We, therefore, are very desirous that the honorable Committee on Military Affairs of the Senate shall report the bill favorably to the Senate and give that body an opportunity of assuming the responsibility of its disposition.

We have the honor to request that you will present this communication to the Senate and have it referred to the Committee on Military Affairs for their consideration.

We have the honor to be,

Very respectfully, your obedient servants,

GREEN B. RAUM, *Chairman.*
S. L. GLASGOW, *Secretary.*
SAML. J. CRAWFORD,
L. F. HUBBARD,
FRANK S. NICKERSON,
JOHN L. BEVERIDGE,
E. BENJAMIN ANDREWS,
W. J. COLBURN,
ROBERT P. KENNEDY,
Executive Committee.

Hon. J. C. BURROWS,
United States Senate.

The following-named papers are attached to this letter as an appendix:

1. Joint resolution of the legislature of the State of Illinois.
2. Joint resolution of the legislature of the State of Ohio.
3. Concurrent resolution of the senate and assembly of the State of New York.
4. The act of May 15, 1828.
5. The act of June 7, 1832.
6. The act of April 23, 1904.
7. The act of March 3, 1905.
8. The act of June 29, 1906.
9. The act of March 7, 1907.

APPENDIX.

Joint resolution of the legislature of the State of Illinois.

[Senate Joint Resolution No. 30.]

Whereas it has been the policy of this country from the beginning to maintain a small Regular Army, and in times of war to rely upon the patriotism of the people to rally as volunteers in defense of the national flag; and

Whereas it is a recognized fact that the civil war, eighteen hundred and sixty-one to eighteen hundred and sixty-five, forms the most sanguinary chapter in the history of the world; that the Regular Army during that struggle was maintained at about twenty-five thousand men, while the volunteers numbered more than two million five hundred thousand of officers and enlisted men; and

Whereas it is a recognized fact that the union of these States was preserved, and the national authority maintained by the patriotism, fortitude, and valor of the volunteers, to whom this great united people, now enjoying the inestimable blessings of a preserved Union, owe a debt of gratitude that can never be paid: therefore

Resolved by the senate, the house of representatives concurring herein, That we request the Senators and Representatives of the Sixtieth Congress from the State of Illinois to aid in the prompt enactment of a law in effect creating a volunteer retired list upon which may be placed with retired pay, upon application, the surviving volunteer officers of the Army, Navy, and Marines of the United States who served with credit during the civil war; such survivors now constituting a small remnant of that body of gallant men who led the Union forces to final victory.

Resolved further, That in our opinion the precedents of Congressional legislation fully justify the enactment of this law—namely, the acts of eighteen hundred and twenty-eight and eighteen hundred and thirty-two, granting retired pay during life to the surviving officers and enlisted men of the Army, Navy, and Marines of the Revolution; the act of nineteen hundred and one, retiring Charles A. Boutelle, a volunteer officer of the Union Navy with the rank and retired pay of captain of the Navy; the acts of nineteen hundred and four, nineteen hundred and six, and nineteen hundred and seven, granting increased rank and retired pay to the officers of the Regular Army and Navy, based solely on the ground that they had "served with credit during the civil war;" and the act of nineteen hundred and five providing for the retirement of two officers of volunteers—namely, Generals Joseph R. Hawley and P. J. Osterhaus, with the rank and retired pay of brigadier-generals.

Therefore it is further resolved, That in our opinion the surviving officers of volunteers of the Army, Navy, and Marines who served with credit in the great war for the preservation of the Union are entitled to receive from the National Government honors and emoluments equal to those which had heretofore been bestowed upon any officers who served in time of war in defense of the country.

Adopted by the senate November 26, 1907.

Concurred in by the house January 14, 1908.

UNITED STATES OF AMERICA,
State of Illinois, ss:

OFFICE OF THE SECRETARY OF STATE.

I, James A. Rose, secretary of state of the State of Illinois, do hereby certify *that the foregoing joint* resolution of the forty-fifth general assembly of the

State of Illinois, passed and adopted at the regular session thereof, is a true and correct copy of the original joint resolution now on file in the office of the secretary of state.

In witness whereof, I hereunto set my hand and affix the great seal of State, at the city of Springfield, this 15th day of January, A. D. 1908.

[SEAL.] JAMES A. ROSE,
Secretary of State.

Joint resolution of the legislature of the State of Ohio.

Be it resolved by the general assembly of the State of Ohio, That we respectfully ask our Senators and Representatives in the Congress of the United States to enact a bill now before Congress, introduced by Hon. Beman G. Dawes, of Ohio, known as the volunteer retired list, which gives the same pay as that given to the retired officers of the Regular Army, deducting therefrom any pension they may now receive, but in no case to exceed that of a captain of cavalry.

The above resolution passed the house of representatives, February 3, 1908.

E. W. DOTY, *Clerk.*

Passed the senate February 17, 1908.

A. P. SANDLES, *Clerk.*

Concurrent resolution of the senate and assembly of the State of New York.

STATE OF NEW YORK,
In Senate, Albany, Thursday, February 20, 1908.

Concurrent resolution of the senate and assembly of the State of New York, requesting the Senators and Representatives of New York in the Congress of the United States of America to aid in the enactment of a law to create a volunteer retired list, upon which surviving officers of the United States Volunter Army, Navy and Marines of the civil war may be placed with retired pay.

Whereas it has been the policy of this country from the beginning to retain a small Regular Army, and in times of war to rely upon the patriotism of the people to rally as volunteers in defense of the national flag.

And whereas it is a recognized fact that the civil war—eighteen hundred and sixty-one to eighteen hundred and sixty-five—forms the most sanguinary chapter in the history of the world; that the Regular Army, during that struggle, was maintained at about twenty-five thousand officers and men, while the volunteers numbered more than two million five hundred thousand of officers and enlisted men.

And whereas it is a recognized fact that the union of these States was preserved, and the national authority maintained by the patriotism, fortitude, and valor of the volunteers, to whom this great united people, now enjoying the inestimable blessings of a preserved union, owe a debt of gratitude that can never be paid.

Therefore be it resolved (if the assembly concur), That we request the Senators and Representatives of the Sixtieth Congress from the State of New York, to aid in the prompt enactment of a law in effect creating a volunteer retired list upon which may be placed with retired pay, upon application, the surviving volunteer officers of the Army, Navy, and Marines of the United States who served with credit during the civil war; such survivors now constituting a small remnant of that body of gallant men who led the Union forces to final victory.

Be it further resolved (if the assembly concur), That in our opinion the precedents of Congressional legislation fully jutify the enactment of this law, namely, the acts of eighteen hundred and twenty-eight and eighteen hundred and thirty-two, granting retired pay during life to the surviving officers and enlisted men of the Army, Navy, and Marines of the Revolution; the act of nineteen hundred and one retiring Charles A. Boutelle, a volunteer officer of the Union Navy with the rank and retired pay of captain of the Navy; the acts of nineteen hundred and four, nineteen hundred and six, and nineteen hundred and seven granting increased rank and retired pay to the officers of the

Regular Army and Navy, based solely on the ground that they had "served with credit during the civil war;" and the act of nineteen hundred and five providing for the retirement of two officers of volunteers, namely Generals Joseph R. Hawley and P. J. Osterhaus, with the rank and retired pay of brigadier-generals.

Be it further resolved (if the assembly concur), That in our opinion the surviving officers of Volunteers of the Army, Navy, and Marines, who served with credit in the great war for the preservation of the Union, are entitled to receive from the National Government honors and emoluments equal to those which had heretofore been bestowed upon any officers who have served in time of war in defense of the country.

By order of the senate.

LAFAYETTE B. GLEASON, *Clerk.*

IN ASSEMBLY, *March 11, 1908.*
Concurred in without amendment.
By order of the assembly.

RAY B. SMITH, *Clerk.*

Act of May 15, 1828.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the surviving officers of the Army of the Revolution in the Continental line, who was entitled to half pay by the resolve of October twenty-one, one thousand seven hundred and eighty, be authorized to receive, out of any money in the Treasury not otherwise appropriated, the amount of his full pay in said line, according to his rank in the line, to begin on the third day of March, one thousand eight hundred and twenty-six, and to continue during his natural life: *Provided*, That under this act, no officer shall be entitled to receive a larger sum than the full pay of a captain in said line.

SEC. 2. *And it is further enacted*, That whenever any of said officers has received money of the United States, as a pensioner, since the third day of March, one thousand eight hundred and twenty-six, aforesaid, the sum so received shall be deducted from what said officer would otherwise be entitled to under the first section of this act.

SEC. 3. *And be it further enacted*, That every noncommissioned officer, musician, or private in said army, who enlisted therein for and during the war and continued in service until its termination, and thereby became entitled to receive a reward of eighty dollars under a resolve of Congress passed May fifteenth, one thousand seven hundred and seventy-eight, shall be entitled to receive his full monthly pay in said service out of any money in the Treasury not otherwise appropriated, to begin on the third day of March, one thousand eight hundred and twenty-six, and to continue during his natural life: *Provided*, That no noncommissioned officer, musician, or private in said army who is now on the pension list of the United States shall be entitled to the benefits of this act.

SEC 4. *And be it further enacted*, That the pay allowed by this act shall, under the direction of the Secretary of the Treasury, be paid to the officer or soldier entitled thereto, or to their authorized attorney, at such places and days as said Secretary may direct, and that no foreign officer shall be entitled to said pay, nor shall any officer or soldier receive the same until he furnish to said Secretary satisfactory evidence that he is entitled to the same in conformity to the provisions of this act; and the pay allowed by this act shall not in any way be transferable or liable to attachment, levy, or seizure by any legal process whatever, but shall inure wholly to the personal benefit of the officer or soldier entitled to the same by this act.

SEC. 5. *And be it further enacted*, That so much of said pay as accrued by the provisions of this act before the third day of March, one thousand eight hundred and twenty-eight, shall be paid to the officers and soldiers entitled to the same as soon as may be, in the manner and under the provisions before mentioned: and the pay which shall accrue after said day shall be paid semiannually, in like manner, and under the same provision.

(U. S. Statutes at Large, vol. 4, pp. 269, 270.)

Act of June 7, 1832.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the surviving officers, noncommissioned officers, musicians, soldiers, and Indian spies, who shall have served in the Continental line, or State troops, volunteers or militia, at one or more terms, a period of two years, during the war of the Revolution, and who are not entitled to any benefit under the act for the relief of certain surviving officers and soldiers of the Revolution, passed the fifteenth day of May, eighteen hundred and twenty-eight, be authorized to receive, out of any money in the Treasury not otherwise appropriated, the amount of his full pay in the said line, according to his rank, but not exceeding, in any case, the pay of a captain in the said line; such pay to commence from the fourth day of March, one thousand eight hundred and thirty-one, and shall continue during his natural life; and that any such officer, noncommissioned officer, musician, or private, as aforesaid, who shall have served in the Continental line, State troops, volunteers or militia, a term or terms in the whole less than the above period, but not less than six months, shall be authorized to receive, out of any unappropriated money in the Treasury, during his natural life, each according to his term of service, an amount bearing such proportion to the annuity granted to the same rank for the service of two years, as his term of service did to the term aforesaid; to commence from the fourth day of March, one thousand eight hundred and thirty-one.

SEC. 2. *And be it further enacted*, That no person receiving any annuity or pension under any law of the United States providing for Revolutionary officers and soldiers shall be entitled to the benefits of this act unless he shall first relinquish his further claim to such pension, and in all payments under this act the amount which may have been received under any other act as aforesaid, since the date at which the payments under this act shall commerce, shall first be deducted from such payment.

SEC. 5. *And be it further enacted*, That the officers, noncommissioned officers, mariners, or marines who served for a like term in the naval service during the Revolutionary war shall be entitled to the benefits of this act in the same manner as is provided for the officers and soldiers of the army of the Revolution.

(U. S. Statutes at Large, Vol. IV, pp. 529, 530.)

Act of April 23, 1904.

RETIRED OFFICERS.

That any officer below the grade of brigadier-general who served with credit as an officer or as an enlisted man in the regular or volunteer forces during the civil war prior to April ninth, eighteen hundred and sixty-five, otherwise than as a cadet, and whose name is borne on the Official Register of the Army, and who has heretofore been, or may hereafter be, retired on account of wounds or disability incident to the service, or on account of age or after forty years' service, may, in the discretion of the President, by and with the advice of the Senate, be placed on the retired list of the Army with the rank and retired pay of one grade above that actually held by him at the time of his retirement.

Act of March 3, 1905.

RETIRING BRIGADIER-GENERALS HAWLEY AND OSTERHAUS.

That the President of the United States be, and he is hereby, authorized in his discretion to nominate and, by and with the consent of the Senate, to appoint upon the retired list of the Army, with the rank of brigadier-general, Joseph R. Hawley, formerly a brigadier-general and brevet major-general of volunteers during the civil war.

That the President of the United States be, and he is hereby, authorized in his discretion to nominate and, by and with the consent of the Senate, to appoint upon the retired list of the Army, with the rank of brigadier-general, Peter Josef Osterhaus, formerly a major-general of volunteers during the civil war.

Act of June 29, 1906.

That any officer of the Navy not above the grade of captain who served with credit as an officer or as an enlisted man in the regular or volunteer forces during the civil war prior to April ninth, eighteen hundred and sixty-five, otherwise than as a cadet, and whose name is borne on the Official Register of the Navy, and who has heretofore been, or may hereafter be, retired on account of wounds or disability incident to the service, or on account of age or after forty years' service, may, in the discretion of the President, by and with the advice and consent of the Senate, be placed on the retired list of the Navy with the rank and retired pay of one grade above that actually held by him at the time of retirement: *Provided*, That this act shall not apply to any officer who received an advance of grade at or since the date of his retirement, or who has been restored to the Navy and placed on the retired list by virtue of the provisions of a special act of Congress.

(Same provision for the benefit of marine officers.)

Act of March 2, 1907.

That officers who served creditably in the regular or volunteer forces during the civil war prior to April ninth, eighteen hundred and sixty-five, and who now hold the rank of brigadier-general on the active list of the Army, having previously held the rank for three years or more, shall, when retired from active service, have the rank and retired pay of major-general.

O

60TH CONGRESS, 1st Session } SENATE { DOCUMENT No. 432

SITES FOR PUBLIC BUILDINGS IN THE DISTRICT OF COLUMBIA

SPEECH BY SENATOR NATHAN B. SCOTT, OF WEST VIRGINIA, IN THE SENATE OF THE UNITED STATES, CHAIRMAN OF THE COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS

ON SENATE BILL NO. 122

ENTITLED "A BILL AUTHORIZING THE PURCHASE OF GROUND FOR THE ACCOMMODATION OF PUBLIC BUILDINGS FOR THE USE OF THE UNITED STATES GOVERNMENT, AND FOR OTHER PURPOSES,"

DELIVERED IN THE UNITED STATES SENATE
MONDAY, APRIL 13, 1908

APRIL 13, 1908.—Ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

Ordered, That the address delivered on the 13th instant by Mr. Scott on S. 122, "Authorizing the purchase of ground for the accommodation of public buildings for the use of United States, and for other purposes," be printed as a document.

SITES FOR PUBLIC BUILDINGS IN THE DISTRICT OF COLUMBIA.

Mr. SCOTT. Mr. President, in accordance with the notice I gave on Thursday last, I now ask that Senate bill No. 122 be laid before the Senate.

The VICE-PRESIDENT. The Chair lays before the Senate the bill referred to by the Senator from West Virginia, the title of which will be read by the Secretary.

The SECRETARY. A bill (S. 122) authorizing the purchase of grounds for the accommodation of public buildings for the use of the Government of the United States in the District of Columbia, and for other purposes.

Mr. SCOTT. Mr. President, the most important question, in my opinion, confronting Congress in its relation to the work of the Government itself in the District of Columbia is that of buildings in which that work can be conducted. Instead of compact structures in which the business of the various Departments can be carried on, the work of the Government is being scattered all over the city, and most unsatisfactory results follow. The amount of money spent by the Government for rental in the District of Columbia is increasing at an alarming ratio, and I think it is time that a halt should be called, Department buildings erected, and the clerical affairs of the Government carried on with dispatch and economy.

It is a plain business proposition which I desire to bring to the attention of the Senate. No business man in the United States would hesitate one minute on a rent proposition of 2 per cent as opposed to 5, 10, or 20 per cent. Neither would he hesitate on the proposition for proper, commodious, and connected offices in which to carry on his business. Where is the proprietor of a large department store who does not demand that all his wares shall be housed under one roof? He does not care to have his silk counters at one place and his linen goods shown in a building a mile away. Such a proprietor is aiming always at economy and the best results on the money invested. Should the Government act differently? Are we not here as the representatives of our States and our people to see that the moneys of the Federal Government are carefully and economically expended and that the best results are obtained? Should we hold it to be economy and carefulness merely to refuse to make appropriations? Are we legislating for the best interests of our country when we go on record as opposed to an appropriation for buildings needed in the District of Columbia in which the work of the Federal Government is to be carried on? Do we really salve our consciences with the ointment of being

"watch dogs of the Treasury" and of always being on the alert to protect the interests of the people? I wonder if we do? For if we do, I fear we are resting in false security, and that some day our refusal to act fairly on plain business propositions will rise up to haunt us. For I think an alarming situation confronts us.

During the fiscal year ending June 30, 1908, the Government will have spent for rent of buildings in the District of Columbia the sum of $415,622.03, or, in round numbers, $416,000. To show how the annual rental has been constantly increasing, I desire to present to the Senate the amounts so used for the past ten fiscal years:

1897	$176,144.00
1898	184,346.59
1899	178,585.92
1900	187,615.31
1901	196,205.00
1902	273,219.50
1903	316,249.84
1904	341,236.84
1905	349,266.17
1906	370,123.66
1907	415,622.03

These figures speak for themselves, and this table shows that each year there has been an increase, and unless several departmental buildings are erected it is not unreasonable to suppose that ten years from now over a million dollars will be spent annually in this city for rentals for Government purposes.

Mr. FORAKER. Mr. President, will the Senator allow me to ask him a question for information?

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Ohio?

Mr. SCOTT. Certainly.

Mr. FORAKER. Is it not true that during all this period, when the rentals have been increasing in the way the Senator suggests, we have in fact, been providing new and additional buildings to accommodate the various Departments in the District of Columbia?

Mr. SCOTT. A very few of them, I will say to the Senator from Ohio. We are erecting near the Capitol a very elaborate building for the use of Senators that I think could very readily and very appropriately be adapted to the use of the Department of Commerce and Labor; but I am not taking that position in my argument this morning.

Mr. FORAKER. I know that constantly from time to time during the last ten years I have been voting for appropriations to erect public buildings in the District of Columbia. In addition to the building mentioned by the Senator, the Post-Office building has been provided, and I do not know how many others. We have been providing public buildings right along. I do not complain at all. I merely want to get the facts.

Mr. SCOTT. If the Senator will bear with me for a few moments, I think we will get to that.

The Government to-day has no difficulty in placing all the bonds it desires at an interest rate of 2 per cent. At such a rate the $416,000 being spent this fiscal year represents an investment of over $20,000,000. With $20,000,000 departmental buildings enough can be

erected to house every clerk in Government buildings, and these will be a credit and a saving to the United States. And would not such an investment be the part of economy? The Government would then only be paying a 2 per cent rental and would own in time buildings whose rents have paid for themselves. It would have held in its own Treasury money which otherwise would have enriched the individual. If our Government is to be administered on sound, economic principles, this is the only solution. If it is to be administered for the benefit of a few in the District of Columbia, the rental system should remain as it is, and no further efforts should be made to erect buildings in this District for the necessary work of the Departments. We should rely on private enterprise and reward it with from 5 to 20 per cent interest on its investment. Then we can give account of our stewardship to our States and our people and prove how we have economically handled the public money for the benefit of a few; how we have zealously guarded the revenues against the greed of a plain, economical, necessary business proposition.

For it is a necessary business proposition. I have only stated one of the aspects. There is another, and that is the right the Government has to require from its employees the highest grade of results. But in securing this there are reciprocal obligations. The Government must give the employee all the opportunities, all the implements, all the necessities with which to do his best. Is the Government living up to its part of the contract? All the testimony says no. For it is a declared fact that in the present day sanitary and commodious quarters must be furnished clerks to secure from them the best work. They must be given room in which to turn around. At present halls and stairways are being utilized to give clerks space in which to do their work, and when they are thus cramped and crowded they are unable to give that which should rightly be demanded.

But is it possible that such a condition as this exists? Are halls in crowded buildings absolutely unfitted for the purposes thus used? Are heads of Departments asking, clamoring for relief? Have they been clamoring for years? Has Congress heeded their appeals? The records of each House will show. Shall I illustrate?

Take, for example, the Department of Justice. When the old building on the corner of Madison place and Pennsylvania avenue was torn down, that Department rented the Baltic Building, on K street, and also one building on Lafayette square, at the same time its library was placed in the Court of Claims building. Two years later, in 1901, to relieve the building on Lafayette square, the Department was forced to rent nine rooms in the Bond Building, and later the building on Vermont avenue, directly east of the Baltic Building. In the same year a building for the Spanish Treaty Claims Commission had to be secured. But even this was not enough, and two years later the Department was obliged to rent the building directly west of its main building on K street, and all these are now crowded to their utmost limit.

This situation is bad enough, but it is not the worst. Not only is the business of this Department scattered in these various buildings, but it is absolutely at the mercy of the owners. Listen to the testimony of Attorney-General Moody, now a justice of the Supreme

Court, before a Senate committee two years ago. In answer to a question he said:

Let me give you a rather humiliating example of the position in which we are placed. I will not name the particular building. The landlord of one of the buildings which we rent, and which we must have, declined to make repairs which, in my judgment, under the terms of the tenancy, he was bound to make. I started to be very severe with him and insist upon our rights. In substance, he replied: "If you don't like it, you can get out," and I had to submit. I could not be turned out upon the streets, and therefore I was at his mercy. In the main, I think our landlords have treated us with fairness, but as the leases expire of course we are at their mercy upon the question of renewal.

Now, another illustration, before the same committee at the same time, given by Mr. O. J. Field, chief clerk of the Department of Justice. In relation to the building occupied by the Spanish Treaty Claims Commission he said:

We leased that building five years ago, for $200 a month for three years. At he expiration of three years they increased the rent $50 a month for two years. That two years' lease expired the 1st of April. They demanded a further increase of $50 a month on a six months' lease. We hardly wanted to lease a building for just six months, and in endeavoring to reach some compromise proposition for a longer tenancy they notified us that they declared all negotiations off a week or ten days before the lease expired, and we are hunting around for some place to move the Spanish Treaty Claims Commission to on a week's notice.

As a sequel to this testimony, I can state that the Department of Justice finally compromised with the owners of this building by signing another lease for three years at an increase of $50 per month.

Has any Attorney-General presented this situation to Congress, and is this body still ignorant of these conditions? A business man, a man of affairs, would think the latter. The people might think the same. But for years every Attorney-General of the United States has been pleading for relief from these almost unbearable conditions. They have appeared before committees; they have, within their rights, officially acquainted Congress with this state of affairs. With what result? An effort to fairly meet the difficulties and remedy them in a plain businesslike way? No; but with the stern admonition—

We are carefully guarding the revenues. Crowd your clerks up a little closer, Mr. Attorney-General, and, if necessary, close up windows and utilize halls. We must economize.

Shall I illustrate again? Take, for example, the State Department. Thirty years ago it was given the entire south wing of the State, War, and Navy building, but encroachments have been made upon it for uses of the War and Navy Departments, and at present only 60 per cent of the room then provided is used by the Department. Has the business of that Department increased in the past thirty years? Yes; enormously. Thirty years ago, and for a long time after that, we were a debtor nation. American capital and American enterprise were engrossed in the development of our own country; there was comparatively little foreign travel, and the relations between the United States and other countries of the world was largely formal. Now we have come to a new era. American enterprise is pushing into every country; American construction is going on all over the world. American trade, American banking, and great American interests are being built up in almost every country on the earth, and a very large representation of our 80,000,000 of people is travel-

ing all over the world. The enormous activity which has sprung up in all of these ways has developed enormous additional labors on the State Department, and yet it only has 60 per cent of the space originally provided thirty years ago. Secretaries of State have reported that their Department is reaching a point where it will be swamped for lack of proper organization. Records can not be handled in a proper manner because of inadequate space. The Secretary of State can not have a private interview with a Senator, a Member of Congress, a Cabinet officer, a foreign ambassador, minister, or consul, because he has no private room.

Before the Senate committee I referred to a few minutes ago Secretary of State Root testified as follows:

> There are a great many Senators and Representatives who come to the State Department with constituents, and what they come for is to introduce the constituents. They do not want to waste any time about it. They do not want more than a minute. I have no place to see them, because I have just this one room. I may be having an important conversation with someone that will take twenty minutes or half an hour. In the War Department, as soon as I found there were a number of people in the anteroom I would stop the conversation, go out and dispose of the one-minute people, let the Senators and Representatives introduce their constituents and go their way. I would find a dozen people who would not want a minute. There might be two or three who wanted more time, and I would let them wait and take their turn, instead of keeping the whole crowd waiting. It is exceedingly inconvenient. It is injurious to the public business, and it is very undignified; but I know of no way to cure it, because I can not find any room without turning a lot of clerks out-of-doors, whose services are absolutely necessary. My private secretary is now in a room away off in a corner, a long distance from me.

Secretary Root further complained that recently he had the gentlemen here who were to go to the Rio conference and that he had to give them the diplomatic anteroom and make special arrangements to have foreign diplomats remain in their embassies and not visit him until after these gentlemen were through with their work. At another time the Sanitary Congress, under a resolution passed by the Second Pan-American Conference, at Mexico, came here, and the only thing that he could do was to secure rooms at the Willard Hotel, and the same procedure was followed in the case of commissioners from China. At another time the arbitrators of the Salvador Commercial Company's claim against the Government of Salvador met here. The arbitrators needed space for only a few weeks. What should be done with them? There was no space in the State Department, none of the desirable rooms in the nicer office buildings could be taken for less than six months, so the State Department was compelled to be content with securing rooms in the second-rate building, and even these were hard to find. As a final example, the Anglo-American Joint High Commission was forced to meet in the ordinary of the Arlington Hotel.

Mr. President, these are only a few of the many difficulties with which the State Department has to contend. It is the one official depository of the original acts of Congress, of the original proclamations of the Presidents, and of the original Executive orders—all of the greatest importance, not only to ourselves, but to our posterity. And these are all filed in vaults and cases which are not even fireproof. What recklessness!

Have not the Secretaries of State presented this situation to Congress? Is this body still ignorant of these conditions? Again I say, a business man and a man of affairs would think the latter; the peo-

ple might think the same. But for years the Secretaries of State have been pleading for relief from these almost intolerable conditions. They have appeared before committees; they have, within their rights officially acquainted Congress with this state of affairs. With what result? An effort to fairly meet the difficulties and remedy them in a plain businesslike way? No. And, as in the case with the Department of Justice, they are met with the stern admonition:

We are carefully guarding the reserves. What difference does it make if you have all the files since the foundation of the Government, since 1789, stowed away in nonfireproof cases? What difference does it make if you have many valuable and confidential papers relating to prosecutions and matters of all kinds? What difference does it make if you have diplomatic correspondence which could not be replaced? What difference does it make if the vaults and cases are not fireproof? Papers massed in a bunch will not burn; only the edges will be charred; fire dies out for lack of oxygen, you know. And it will not make much difference anyway; get new files; get new diplomatic documents; crowd up your clerks; close up your windows and utilize halls. We must economize.

Shall I illustrate again? Then take, for example, the Department of Commerce and Labor. It is scattered over a large portion of the business center of the city. Part of it is in the Willard Building, on Fourteenth street; another part of it in the Emory Building, at First and B streets NW.; another part of it in the National Safe Deposit Building, New York avenue and Fifteenth street; another part of it in the Builders' Exchange Building, on Thirteenth street; another part in the Adams Building, on F street, between Thirteenth and Fourteenth streets; another part in the Munsey Building, north side of E, between Thirteenth and Fourteenth streets; still another part on E street, between Ninth and Tenth, and the Department is asking for additional quarters. Think of it! This Department is distributed over a distance of a mile and a half long east and west and about one-third of a mile north and south. This Department is a new one, and its needs are more patent than some of the others.

Have not Secretaries of Commerce and Labor presented this situation to Congress? And is this body still ignorant of these conditions? A business man, a man of affairs, would think the latter; the people might think the same. But since the establishment of this Department each Secretary has been pleading for relief from these almost unbearable conditions. They have appeared before committees; they have, within their rights, officially acquainted Congress with this state of affairs. With what result? An effort to fairly meet the difficulties and remedy them in a plain, businesslike way? No. But with the stern admonition:

We are carefully guarding the revenues. In that section of the city, a mile and a half long east and west and one-third of a mile north and south, you must have many windows and hallways. Close up some of your windows and utilize your hallways; crowd your clerks up a little closer, Mr. Secretary of Commerce and Labor. We must economize.

Similar conditions, of course in a less degree of intensity, exist in other Departments which have been housed for years in homes of their own. The Senate Committee on Public Buildings and Grounds during the last Congress and during this session, too, took up this situation and tried to find a remedy. It made a favorable report on the proposition for buying the squares of ground lying between Fourteenth and Fifteenth streets, Pennsylvania avenue, and D street NW., as a site on which departmental buildings could be

erected. These buildings were to house the Departments of State, Justice, and Commerce and Labor. This site was selected, since there seem to be the strongest of reasons why two of these Departments should be within a short distance of the White House. I refer to the Department of State and the Department of Justice. The heads of these two Departments of the Government are more often called by the President to the White House than are any other members of his official family, and the length of their absence from the offices would thereby be reduced to a minimum. This site was also selected on account of its size. Owing to the fact that these buildings were to be near the White House it was obvious that the Treasury Department should not be dwarfed, and the general architectural plan called for structures of four or five stories only. In no other section near the White House could these requisites be met. In addition, the selection of this site was in the general line of the proposed parking system, having in view the most economical beautifying of the city—the carrying out of the plans of the founders.

At the time the committee had a rough estimate of the cost of such buildings made. A building which would supply all the present wants of the Department of Commerce and Labor, allow for a one-third increase in that Department, and still give room for the Interstate Commerce Commission, could be erected, in round numbers, for $5,000,000. This building would be granite faced, of modern type, four stories and basement. A building sufficient to house the Department of State and the Department of Justice could be erected, in round numbers, for $2,000,000, making a total of $7,000,000, exclusive of site. It is only a question of time until the Government will have to own this property anyhow in order to carry out its parking schemes, and for the time being the cost of the site could be left out of consideration.

Let us see if from a financial standpoint this would be a businesslike proposition. What are the savings in rent? During the present fiscal year the State Department pays out in rent $3,580; the Department of Commerce and Labor, $60,049.80; the Department of Justice, $28,200; the Interstate Commerce Commission, $29,160; a total of $110,489. With the State Department moved from its present quarters into a new building, the rent of the Mills Building and some other buildings used by the War and Navy Departments could be saved and run this total up to at least $140,000—2 per cent of $7,000,000. But in a late annual report of the Secretary of Commerce and Labor he says the assembling of the bureaus and offices of the Department under one roof would result in a saving in the cost of administration, on a very conservative estimate, of at least $66,000 per year. I am informed that at least $50,000 could be saved in a similar manner in the Department of Justice. These savings added to the amount paid for rent would bring the total of savings in these two buildings up to $256,000, a 2 per cent rate of interest on $12,800,000.

Is not that a fair, businesslike statement? Would it not be true economy to begin at once the erection of these buildings?

Another condition confronts us, and that is that the buildings now occupied by the various Departments are all crowded, and each Secretary is calling for more space. Some day this condition will have to be met and several other buildings erected in the District of Columbia. Those just mentioned would take care of three Departments and would

relieve the War and Navy Departments of the crowded condition which exists in their buildings. The Government at present owns the corner lot across Pennsylvania avenue from the Treasury building. The purchase of the Arlington Insurance Company Building and the Belasco Theater would give the Government a fine site on which could be erected a handsome four-story Auditors' office. Such a building as this would relieve at once the Treasury Department of its congestion. Forty-three per cent of the floor space in the Treasury Department is occupied by Auditors' offices. These auditors do not necessarily come in contact with the Secretary or his assistants every day, while in the purely Treasury work of the Department the heads of bureaus are constantly being called into consultation with the Secretary or his assistants. The location of such a building on Pennsylvania avenue would at once put the auditors in the different Departments together, give more room in the Treasury Department, and relieve the Post-Office Department of some of its congestion.

To still further relieve the congestion in the Post-Office Department a new postal workshop should be erected at the Union Station. Here all mails could be handled promptly, carriers could start their deliveries from this point, and the objects of a fast mail service absolutely obtained. It is the veriest nonsense to run fast mail trains from New York to Washington and then have forty-five minutes wasted in carrying mail from the Union Station to the present post-office building. Other cities have seen the necessity of a post-office which is a workshop, and are already clamoring for such an improvement. With this addition the Post-Office Department would have the space it needs.

For years a new building for the Bureau of Printing and Engraving has been needed. In the last Congress the necessity was realized and the Secretary of the Treasury was authorized to prepare a plan. He has found the most deplorable overcrowding of men and women in every part of the building. He has found that it was necessary to work a part of the force beyond regular hours, and a considerable part of the men and women at night. Should Congress provide by new legislation for increased issues of notes, it would be necessary to resume this overtime work. The Secretary of the Treasury has made his recommendations and they are worthy of consideration, and I understand they are to be adopted. I shall offer no objections. I am only too glad to see the needs met. But I think the Bureau of Printing and Engraving should be a workshop—it is merely an establishment where money is manufactured. It should be located where it could have railroad facilities, and as much as possible of the work should be done on the ground floor. This could be accomplished by securing a cheap site near one of the railroads and erecting a modern manufacturing plant. All the heavy machinery could then be on the first floor, instead of running up into the air five or six stories, as it does in the present building. Such a structure would not need to be a granite Government building, but simply a substantial, handsome, brick, manufacturing establishment. With the Bureau of Printing and Engraving located along the railroad where it could have switching and other facilities, the Treasury Department could be relieved of a great expense in the hauling of paper to and fro, checking up, weighing, etc. All this could be done at the Bureau of Printing and Engraving, and one hauling would be sufficient. But, as I stated

before, I understand the present building is to be enlarged, and when the matter comes before the Senate I shall offer no opposition further than to repeat these views.

I had thought that with the Bureau of Printing and Engraving housed in such an establishment as this, the present building could be used as a hall of records, since such a structure is badly needed. But a new building for such a hall can be erected for $2,000,000, and no Senator can for a moment oppose its erection on a plea of no necessity.

One more building is needed, that for the Geological Survey. Its necessity has been shown before numerous committees on numerous occasions. I feel that I am within the limits of reason when I say that $20,000,000, the amount on which the Government is now paying a 2 per cent rate of interest in rent, would more than erect and equip these buildings. It would even go far enough, in my opinion, to build a separate structure for the Census Bureau, though that is taken care of in the rough estimates of the Commerce and Labor building spoken of before, 136,000 square feet space being given to it. The erection of a building for the Census Bureau is a mere matter of opinion. Each ten years a large number of clerks will be employed for a couple of years and then the Bureau will drop to its normal size of a few hundred clerks. This is the one Bureau of the Government that contracts and expands. The space used at its greatest expansion could be temporarily occupied during the period of greatest contraction, and it is six of one and half a dozen of another whether it is in a Department building or in a structure by itself.

To erect such buildings, it seems to me, is the plan which a business man would follow and which I think the Federal Government should adopt. In making an estimate of the savings to the Government, I have only given the figures for rent. But there are other savings on which I have only touched—I mean savings in administration. As before stated, the Department of Commerce and Labor estimates this saving at $66,000 per year, the Department of Justice at $50,000, and I am informed the Bureau of Printing and Engraving can save at least $20,000. In the other Departments a similar administrative saving could be accomplished by placing all bureaus and offices under one roof; but I have been unable to secure figures that would be of any value. It is fair, however, to estimate that the saving would be in the same proportion as in the two Departments and one Bureau from which I have received estimates. To be perfectly fair, I should state that the total rent figures which I have presented include the rent of certain buildings in the District used for school purposes—buildings which properly should not come within the scope of my remarks. The figures also include rent for stables and $65,000 used by the Agricultural Department this year, but which may not be needed hereafter. These amounts, though, are easily covered by the saving in administration in the other Departments not mentioned. At this point I desire to present a list of all buildings in the District of Columbia rented by the Government and the amounts paid for each. This statement is prepared yearly, as required by the act of July 16, 1892. I will not read it, but ask that it may be appended to my remarks in tabular form. [See appendix.]

Having thus covered the situation, I desire to emphasize my original statement that all the Departments and bureaus of the Government now located in rented buildings can be housed in

buildings owned by the Government at a rental rate of 2 per cent per annum until the said buildings are paid for. To do this, I desire to give estimates showing what such structures would cost. These estimates are in the rough, but approximate the actual cost. Money would be needed as follows:

Commerce and Labor	$5,000,000
Justice and State	2,000,000
Hall of Records	2,000,000
Auditor's offices	1,500,000
Bureau of Printing and Engraving	2,150,000
Post-office workshop	800,000
Census building	350,000
Total	13,800,000

This cost is estimated exclusive of site. But, as I stated before, the sites of a number of these buildings will have to be purchased by the Government at some future date for parking purposes, so their cost should not really be counted on. But, allowing for the cost of sites, $6,000,000 would more than buy all the land needed for each one of these buildings, and then we have a $20,000,000 investment, on which amount the present rental would pay 2 per cent. The twenty millions easily covers any increase of cost of any of the buildings, for six millions will not be needed in the purchase of sites.

But this is not all. Two Departments and one bureau have given rough estimates of saving in administration—a total of $136,000. Add this to the amount paid out in rent, and we have a total expense during the fiscal year ending June 30, 1908, of $652,000. This, Mr. President, is a 2 per cent interest rate on $32,600,000. Should we hesitate?

But even this is not all. Washington is a beautiful city. In travels which have extended almost around the earth I have seen none more beautiful. Americans are proud of it, and they come here from all over our broad country. They travel up and down our streets and feel that they have a part in every public building or park they see. And the American likes a handsome public structure. He is proud of the Congressional Library, for example, and would be pleased with more buildings of a similar order. He likes to see beautiful parks—he is proud of them. I do not believe that a dollar of money which has ever been expended in buildings needed for the Government work, even in beautifying the city, has been criticised by the taxpayers of the United States. The visitors return to their homes and tell their friends and neighbors of the beauties of the Capital City, of the handsome buildings that our country has erected, of the commodious quarters in which some of our clerks are housed.

But if they happen in their sight-seeing cars to pass, for instance, the Department of Justice, what a beautiful prospect is presented! What a magnificent building is pointed out as the home of the Spanish Treaty Claims Commission! What magnificent quarters as part of the workshop of the Department of Commerce and Labor! Do you not think that these Americans go back home and tell their friends all about this? They draw comparison between these Departments and the other Departments, which are housed in beautiful and commodious buildings. And those comparisons are not to our credit.

As I stated before, I do not believe that the expenditure of a single dollar for the city of Washington in order to beautify the capital of the nation and erect its workshops has ever been criticised by an American taxpayer or an American voter. I do not believe that if to-day the Congress of the United States was to pass a bill appropriating even $32,000,000 for the purchase of sites and the erection of buildings to complete the plans I have detailed above there would be a dissenting voice raised in the United States. I do not believe there would be one criticism from any paper in the United States. On the other hand, I think it would be one of the most popular measures ever passed by Congress and one that would be met with the heartiest approval everywhere.

I have tried, Mr. President, to give this question to the Senate as a business proposition. I have shown how the Government's needs can be more economically met in the District of Columbia. I have shown the true economy of the situation. I have shown the humiliating positions in which heads of Departments have been placed by landlords and by being forced to invite diplomatic representatives of other governments not to call. I have shown the almost intolerable conditions that exist in rented quarters and in buildings now owned by the Government—conditions that any Senator can examine into himself. I have shown how buildings are absolutely demanded and required. In face of all these facts, I now ask for simple justice to heads of Departments, clerks from whom the best service should be expected, and the people, whose money should be expended in the most economical manner. Shall this state of affairs continue? Shall we still hear the self-deluding, the self-satisfying cry of "We must economize?"

APPENDIX.

Statement of buildings and rooms rented within the District of Columbia for the use of the Government, as required by the act of July 16, 1892 (27 Stat., p. 199), for the fiscal year ending June 30, 1908.

STATE DEPARTMENT.

Location of building or rooms.	For what purpose used.	Annual rental.
No. 1518 L street NW.	Stables for State Department	$720.00
No. 522 Seventeenth street NW	Offices of State Department	2,860.00
Total		3,580.00

TREASURY DEPARTMENT.

No. 1709 New York avenue NW	Photograph gallery and storage of documents and records.	$2,500.00
No. 400 Nineteenth street NW	Treasury stables	1,200.00
Third and fourth floors and two sections on fifth floor, Nos. 920 and 922 E street NW.	Storage of documents and records	8,000.00
Third floor and one room on fourth floor, Star Building, Eleventh street and Pennsylvania avenue NW.	Offices Life-Saving Service	3,936.00
Sixth floor and north half of fifth floor, Union Building, G street between Sixth and Seventh streets NW.	Offices Auditor for the Post-Office Department.	10,250.00
Rooms 701 to 727, inclusive, seventh floor, and rooms 816, 817, 820, 821, 822, 823, 824, and 825, eighth floor, Munsey Building.	Offices Auditor for the Navy Department	11,260.00
Total		37,146.00

WAR DEPARTMENT.

No. 1729 New York avenue NW. (Lemon Building).	War Department	$7,200.00
No. 532 Seventeenth street NW	Depot Quartermaster and Branch of General Staff.	2,500.00
No. 1744 G street NW	Signal Office, Board of Ordnance and Fortification, one Army Board, and two storerooms for Secretary's Office.	2,500.00
No. 610 Seventeenth street NW	The Adjutant-General's Office	1,500.00
No. 1720 H street NW	Medical Dispensary	1,000.00
No. 1800 F street NW	Bureau of Insular Affairs	720.00
No. 1712 G street NW	The Adjutant-General's Office	800.00
Nos. 920 and 922 E street NW.; section A, fifth story, and a section of office on first floor.	Bureau of Insular Affairs	1,500.00
Total		17,720.00

NAVY DEPARTMENT.

Mills Building, corner of Pennsylvania avenue and Seventeenth street NW.	Annex for the purposes of the various bureaus Hydrographic Office, Naval Dispensary, Navy Pay Office, Headquarters United States Marine Corps, General Board, Board of Inspection and Survey, and the Naval Examining and Retiring Board.	$24,500.00

Statement of buildings and rooms rented within the District of Columbia for the use of the Government, as required by the act of July 16, 1892 (27 Stat., p. 199), for the fiscal year ending June 30, 1908—Continued.

DEPARTMENT OF THE INTERIOR.

Location of building or rooms.	For what purpose used.	Annual rental.
Eighth and E streets NW	Civil Service Commission	(a)
Corner of Eighth and G streets NW	Bureau of Education	$4,000.00
Hooe Building, F street NW	Geological Survey	28,500.00
Buildings on alley, rear of Hooe Building	do	6,400.00
Union Building, south half basement floor	Storage of documents	(a)
Union building, G street NW	Patent office model exhibit	(a)
Washington Building Company's building, corner Twelfth and G streets NW.	Reclamation Service	8,000.00
Ouray Building, Eighth and G streets NW., 11 rooms on 7th floor. (Until January 1, 1908.)	General Land Office (reproduction of California records).	3,240.00
Total		50,140.00

POST-OFFICE DEPARTMENT.

Union Building, G street between Sixth and Seventh streets NW.	Station G, city post-office	bc $3,500.00
No. 1413 F street NW	Station C, city post-office	b 2,000.00
Fourth and East Capitol streets	Station B, city post-office	b 2,000.00
No. 716 Four-and-a-half street SW	Station D, city post-office	b 850.00
No. 1413 Park street	Station F, city post-office	bd 1,380.00
No. 11 Harrison street (Anacostia)	Station H, city post-office	b d 300.00
Twenty-fourth street NE., between Channing and Douglas streets (Langdon).	Station K, city post-office	b d 200.00
Michigan avenue and Ninth street NE. (Brookland).	Brookland station, city post-office	b d 200.00
Carroll avenue and Blair road (Takoma Park).	Takoma Park station, city post-office	b d 360.00
Anacostia avenue and Benning road (Benning)	Benning station, city post-office	b d 200.00
First and K streets NE	Mail bag repair shop; mail lock repair shop; division of supplies; division of equipment; division of stamps; division of topography; division of redemption, and office superintendent third division, railway mail service.	b 32,000.00
Nos. 918-920 E street NW	Storage of files	e 3,000.00
Alley between L and M, Sixteenth and Seventeenth streets NW.	Stable	300.00
Alley adjoining First and K streets NE	do	200.00
1422 F street NW	Temporary quarters, special record of mail matter.	b e 3,600.00
Total		50,090.00

DEPARTMENT OF AGRICULTURE.

No. 1362 B street SW	Bureau of Animal Industry, laboratories and offices.	$1,800.00
No. 1358 B street SW	Bureau of Animal Industry, offices	750.00
Munsey Building	do	6,520.00
No. 902 Pennsylvania avenue NW	do	240.00
No. 1228 C street SW	Bureau of Animal Industry, stable	144.00
Nos. 1304-1306 B street SW	Bureau of Plant Industry, offices	3,000.00
No. 1308 B street SW	do	360.00
No. 201 Thirteenth street SW	do	360.00
No. 224 Twelfth street SW	do	3,000.00
No. 203 Thirteenth street SW	do	420.00
No. 205 Thirteenth street SW	do	420.00
No. 207 Thirteenth street SW	do	420.00
No. 207½ Thirteenth street SW	do	420.00
No. 209 Thirteenth street SW	do	420.00
No. 237 Fourteenth street SW	do	120.00
No. 1310 B street SW	do	180.00
No. 1224 B street SW	do	450.00
No. 1226 B street SW	do	450.00
No. 1316 B street SW	do	1,500.00
No. 221 Linwood place SW	Bureau of Plant Industry (seed building)	3,000.00
Atlantic Building, 930 F street NW	Forest Service, offices	22,043.00
Ouray Building, Eighth and G streets NW	do	1,428.00
No. 1520 Pennsylvania avenue SE	Forest Service, wood-testing laboratories	600.00

a No lease signed.
b Paid out of appropriation for postal service.
c Including equipment and heat.
d Including heating and lights.
e Including heat, lights, elevator and janitor service.

Statement of buildings and rooms rented within the District of Columbia for the use of the Government, as required by the act of July 16, 1892 (27 Stat., p. 199), for the fiscal year ending June 30, 1908—Continued.

DEPARTMENT OF AGRICULTURE—Continued.

Location of building or rooms.	For what purpose used.	Annual rental.
Rear of 913 E street NW	Forest Service, storage purposes	$270.00
Rear of 922 and 924 F street NW	do	270.00
No. 928 Baptist alley NW	do	120.00
Nos. 202-204 Fourteenth street SW	Bureau of Chemistry, laboratories and offices.	2,500.00
No. 206 Fourteenth street SW	Bureau of Chemistry, storage rooms	300.00
No. 207 Linwood place SW	Bureau of Chemistry, office and storage rooms.	300.00
No. 300 Fourteenth street SW. (two apartments).	Bureau of Chemistry, offices	600.00
No. 300 Fourteenth street SW. (one apartment).	do	300.00
Nos. 208-210 Fourteenth street SW	Bureau of Soils, laboratories and offices	2,600.00
Nos. 212-214 Thirteenth street SW	do	1,320.00
No. 904 B street SW	Bureau of Entomology, offices	720.00
No. 215 Thirteenth street SW	Division of Publications, document rooms	5,000.00
No. 916 Pennsylvania avenue NW	Division of Publications, storage rooms	60.00
No. 237 Fourteenth street SW	Office of Public Roads, offices	1,880.00
Lot 27, square 231, SW	Office of Public Roads, stable	120.00
No. 1120 Virginia avenue SW	Office of Experiment Stations, offices	1,000.00
No. 611 Maryland avenue SW	Office of chief clerk, storage rooms	300.00
Total		65,705.00

DEPARTMENT OF COMMERCE AND LABOR.

Willard Building, 513-515 Fourteenth street NW.	Main Building of Department	$11,830.00
Emery Building, northwest corner First and B streets NW.	Bureau of the Census	21,000.00
204-206 Fourteenth street NW	Bureau of the Census (storage)	1,080.00
National Safe Deposit Building, corner New York avenue and Fifteenth street (in part).	Bureau of Labor	6,750.00
Builder's Exchange Building, 719-721 Thirteenth street NW. (in part).	Light-House Board, Steamboat-Inspection Service, Bureau of Navigation.	7,600.00
Adams Building, 1333-1335 F street NW. (in part).	Bureau of Statistics	4,039.80
Munsey Building, north side of E street, between Thirteenth and Fourteenth streets NW. (in part).	Division of Naturalization	4,000.00
1137-1139 Seventeenth street NW	Stables	1,500.00
920-922 E street NW. (in part) [a]	Storage of records of the Light-House Board.	1,500.00
National Safe Deposit Building, corner New York avenue and Fifteenth street (in part). [a]	Storage of records of the Bureau of Labor.	750.00
Total		60,049.80

DEPARTMENT OF JUSTICE.

No. 1000 Vermont avenue	For records, offices, and business of the Department.	$6,500.00
No. 1435 K street NW	do	10,000.00
No. 8 Jackson place	do	2,100.00
No. 6 Jackson place	do	1,800.00
Bond Building, Fourteenth and New York avenue, rooms 708 and 717, inclusive.	do	1,800.00
No. 1439 K street NW	do	2,400.00
No. 1411 H street NW	For the records, offices, and business of the Spanish Claims Commission.	3,600.00
Total		28,200.00

DISTRICT OF COLUMBIA.

District building	Executive and miscellaneous	$9,000.00
Police station, Anacostia, D. C.	do	480.00
Stable for health department, 219-221 Jackson Hall alley.	do	360.00
Vault in premises Nos. 228-232 First street NW	do	600.00

[a] Paid from the appropriation "Contingent expenses, Department of Commerce and Labor."

Statement of buildings and rooms rented within the District of Columbia for the use of the Government, as required by the act of July 16, 1892 (27 Stat., p. 199), for the fiscal year ending June 30, 1908—Continued.

DISTRICT OF COLUMBIA—Continued.

Location of building or rooms.	For what purpose used.	Annual rental.
Police department, 470 Louisiana avenue NW..	Executive and miscellaneous	$2,400.00
Harper Building, 467 C street NW., four rooms.	do	360.00
House of Detention, 505 Eighteenth street	do	900.00
Premises rear 458 Louisiana avenue NW	do	120.00
Premises rear 921 D street NW	do	240.00
Columbian Building, insurance department, 5 rooms.	do	840.00
Columbian Building, corporation counsel	do	1,000.00
Temporary Home ex-Union Soldiers and Sailors, No. 106 Third street NW.	do	600.00
No. 468 Louisiana avenue NW., 2 rooms	do	300.00
Property yard, lot 4, square 775	do	18.23
Room rear 419 Third street NW	do	48.00
No. 1816 F street NW	do	240.00
No. 472 Louisiana avenue, Gunton Building, 5 rooms.	do	540.00
Total executive and miscellaneous		18,046.23
Miner Building, Seventh and Church streets NW.	Public schools	2,500.00
Nos. 607-609 O street NW	do	912.00
Nos. 624-626 O street NW	do	1,450.00
N. E. Industrial School, corner Eighth and I streets NE.	do	900.00
Peabody Annex, 646 Massachusetts avenue NE	do	696.00
Repair shop, Nos. 11 and 13 D street NW. (2 months).	do	100.00
Premises Bunker Hill road, between Eighth and Ninth streets NE.	do	300.00
No. 730 Twenty-fourth street NW	do	720.00
Masonic Temple, Anacostia, D. C., 2 rooms	do	440.00
No. 494 Maryland avenue SW., 2 rooms	do	360.00
No. 212 H street NW., second floor	do	840.00
Garfield Hall, Garfield, D. C	do	360.00
No. 1017 Twelfth street NW	do	1,200.00
Premises southeast cor. Brightwood ave. and Longfellow street, 1 room.	do	300.00
Israel Baptist Church, assembly hall	do	360.00
People's Seventh Day Adventist Church, 2 rooms.	do	540.00
No. 102 Fenwick street NE	do	144.00
Contee's African Methodist Episcopal Church, Burrville, D. C.	do	150.00
No. 1129 G street NE., 3 rooms	do	300.00
No. 2801 N street NW	do	600.00
No. 4724 Sheriff road	do	150.00
No. 533 Twelfth street SE	do	1,200.00
Emanuel Baptist Church, Garfield, D. C	do	240.00
No. 1606 M street NW., banquet hall	do	300.00
Langdon Hall, Langdon, D. C	do	180.00
Chapel, St. Luke's P. E. Church, Fifteenth and Church streets NW.	do	300.00
Lincoln Memorial Chapel, Sixth and Trumbull streets.	do	300.00
Lincoln Temple Congregational Church, Eleventh and R streets NW.	do	300.00
Samaritan Temple, First, between Second and Third streets SW., 2 rooms.	do	525.00
No. 1338 H street NE	do	300.00
No. 1120 Twentieth street NW	do	318.00
Total for public schools		17,285.00
National Guard Armory, Center Market	Militia, District of Columbia	8,000.00
No. 902 Pennsylvania avenue NW., third and fourth floors.	do	1,000.00
True Reformers Building, Twelfth and U streets NW., basement and office rooms.	do	1,500.00
Armory, 1406 D street NW	do	1,200.00
Rooms in Evening Star Building	do	2,100.00
Rifle Range, Hillsdale, D. C	do	550.00
Total for militia, District of Columbia		14,000.00
Grand total of rent for the District of Columbia.		49,331.23

Statement of buildings and rooms rented within the District of Columbia for the use of the Government, as required by the act of July 16, 1892 (27 Stat., p. 199), for the fiscal year ending June 30, 1908—Continued.

INTERSTATE COMMERCE COMMISSION.

Location of building or rooms.	For what purpose used.	Annual rental.
No. 1317 F street, American Bank Building, third, fourth, fifth, sixth, seventh, eighth, and ninth floors, five rooms on the second floor and one room on the first floor; also the entire cellar (including heating, elevator, and water service).	Interstate Commerce Commission	$18,060.00
No. 1311 G street, Epiphany Building, two rooms on the third floor, three rooms on the second floor, and three rooms in basement (including heating, elevator, and water service).	do	3,800.00
No. 1309 G street, third, fourth, fifth, and sixth floors (including heating, elevator, and water service).	do	6,000.00
Basement of building No. 1334 F street	do	1,300.00
Total		29,160.00

RECAPITULATION.

Department.	Amount.	Department.	Amount.
State Department	$3,580.00	Department of Commerce and Labor	$60,049.80
Treasury Department	37,146.00	Department of Justice	28,200.00
War Department	17,720.00	District of Columbia	49,331.23
Navy Department	24,500.00	Interstate Commerce Commission	29,160.00
Interior Department	50,140.00		
Post-Office Department	50,090.00	Total	415,622.03
Department of Agriculture	65,706.00		

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60TH CONGRESS } SENATE { DOCUMENT
1st Session } { No. 433

THE SECOND HAGUE PEACE CONFERENCE

BY

DAVID JAYNE HILL
D'ESTOURNELLES DE CONSTANT
JAMES BROWN SCOTT
Members of the Conference

PRESENTED BY MR. LODGE
APRIL 14, 1908.—Ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

EXECUTIVE COMMITTEE OF THE AMERICAN BRANCH.

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The Net Result at The Hague.

By David Jayne Hill.

[Reprinted from the Review of Reviews, December, 1907.]

There are two widely accepted theories with regard to the pacification of the world would tend to belittle the value of The Hague Conferences. One is that permanent peace between the nations is intrinsically impossible, because their vital interests and purposes are in essential conflict, and the love of domination is so strong in human nature that war is certain always to recur in the future as it has in the past. The opposing theory is that universal peace is at once attainable by the mere resolution to abolish war, and that governments have only to agree to maintain peace by referring all their differences to third parties for settlement, binding themselves to abide by their decisions, whatever they may be.

Those who hold the first theory regard international conferences like those that have been held at The Hague as nugatory and superfluous, for the reason that such congresses can add nothing to the motives to refrain from war or to the power to prevent it. On the other hand, those who accept the second theory regard as sterile and derisory all discussions and agreements that do not go to the root of the matter and by one decisive act render war impossible.

Between these two ways of thinking, The Hague Conferences have been saluted with contempt on the one hand, and satire on the other; and have found their friends chiefly among those who consider that education, the perception of the practical value of law, and the gradual subjection of impulse to reason are progressive elements of national development under the laws of social evolution; and who, therefore, simply ask that, as in other spheres of political growth, there may be found in international relations a reasonable rate of progress toward the realization of the great ideals of peace, cooperation, and good will.

Leaving aside the merely theoretical aspects of the subject, let us modestly inquire what are the results of the Second Peace Conference at The Hague?

It is not without significance that, for the first time in the history of the world, the representatives of forty-five independent powers—diplomatists, jurists, and experts in military and naval science—have been able to meet together in a friendly manner and to discuss without animosity some of the most delicate international questions during more than four months without a rupture of personal or national amity. When it is considered that the Second Peace Conference at The Hague has included nearly every sovereign state—and all of the greatest importance—that in many instances the truth has been

spoken clearly, earnestly, and sometimes with vivacity; that some of the delegates were but recently arrayed against each other in the heat of battle on sea and land, that others held or represented opinions diametrically opposed, that they were all largely occupied with considering what they might or might not do to one another in the event of a future struggle in which their lives and those of their countrymen would be the pawns, the courtesy, the reasonableness, and the agreement of these gentlemen regarding certain great principles present a commentary on our contemporary civilization and an exposition of its tendencies most gratifying to the moralist and the philanthropist as well as to the jurist and the publicist.

But what has the Second Conference done? It has demonstrated, first of all, not only that a universal congress of this character is possible, but that certain great principles—or postulates of constructive action, as we may call them—are now beyond dispute. Among these are the propositions that peace is the normal and war the abnormal condition of civilized nations; that the relations of sovereign states are properly based on principles of justice, and not upon force; that really sovereign states should have equal rights before the bar of international justice, independently of their size or military strength; that disputes between governments should be settled, as far as possible, by judicial methods, and not by war; and that war, if inevitable, is an evil whose disastrous consequences—especially as regard neutrals, noncombatants, the sick and the wounded—should by general agreement be reduced to a minimum.

What then has the conference done to give practical effect to these principles? It has concluded thirteen conventions, made two declarations, passed one resolution, emitted five *voeux*—which the irreverent characterize as "pious wishes"—and offered one special recommendation.

As the conventions have not yet been ratified, and the action which the different governments may take regarding them is unknown, it would not be appropriate for a recent delegate to do more than describe them in the most objective manner. It is impossible, therefore, at this time and in this article to attempt an analysis of the motives and policies of the different governments—interesting as this might be—in fixing the limitations that have been imposed. It is important to note, however, that, whatever may be the fate of these treaties as respects ratification and subsequent execution, they accurately register the degree of progress which an international conference, seriously and conscientiously aiming at the task of pacification, is now ready to accept.

The work of the conference not only serves to indicate the exact stage that has been reached in international development—which has a considerable value for students of the subject—but it renders apparent what remains to be done in order to carry forward the movement of which it forms a part. That movement can not be promoted by heaping reproaches upon those powers whose conservatism has prevented a further advance in making definite engagements. Each sovereign state has its own peculiar problems of government, is the rightful judge of its own interests and responsibilities, and can not justly be placed in the pillory of public condemnation for the attitude which it regards as appropriate to the discharge of its obligations to its constituents. It is by solid argument and by good example, and not by

censure, therefore, that international progress is to be promoted. However dear our theories and ideas may be to us as individuals or as nations, the first principle of all harmonious international development is that no sovereign state is to be coerced, and that each shall be permitted to act freely in the light of its interests and responsibilities as it sees them. Progress, therefore, can be made no faster than the powers will consent to make it; and that consent will depend in the future, as it has depended in the past, upon educational influence and wise diplomacy. What, then, is the stage of progress actually attained by the Second Peace Conference?

The first convention is a careful revision of the treaty of 1899 for the pacific settlement of international disputes. With regard to good offices and mediation, a slight step forward was taken by the acceptance of the American proposition that the initiative of powers foreign to the controversy in offering them is not only "useful" but "desirable." Greater precision has been given to the operation of commissions of inquiry, whose great utility has already been tested, but it was decided that the functions of such commissions should be confined to a determination of facts and should not extend to fixing responsibility. As regards arbitration, while it was reasserted that "in questions of a legal character, and especially in the interpretation or application of international conventions, arbitration is recognized by the contracting powers as the most efficacious and at the same time the most equitable means of settling differences that have not been adjusted by diplomacy," and, "in consequence, it would be desirable that, in contentions, of this character, the powers should resort to arbitration," it was not found possible to render this resort an obligation.

It is necessary to state, however, that while unanimity upon this proposal was not obtainable—even for a convention that omitted all questions affecting "the vital interests, independence, or honor" of the contestants and included only a meager list of mainly unimportant subjects—32 powers voted in favor of it, only 9 were opposed, and 3 abstained from voting. As practical unanimity was held to be necessary for the inclusion of a convention in the final act, even this very moderate attempt at obligatory arbitration was unfruitful. Still, as this strong manifestation of a disposition to make a definite engagement could not conveniently be nullified without being in some measure recognized, it was resolved, with four abstentions, that the first commission was:

> Unanimous (1) in recognizing the principle of obligatory arbitration; and (2) in declaring that certain differences, notably those relative to the interpretation and application of conventional stipulations, are susceptible of being submitted to obligatory arbitration without restriction.

Regarding this resolution as a retreat from the more advanced position that had been taken by 32 powers, the head of the American delegation clearly explained its attitude and refrained from voting.

It must, in justice, be added that some of the powers voting against an obligatory arbitration convention probably did so chiefly for the purpose of avoiding the isolation of others, and that some of the powers most earnest in opposing the project not only have negotiated special treaties of obligatory arbitration, but declare their intention of negotiating many more. The state of the question, then, is this: All accept the principle of obligatory arbitration in certain classes of

cases, 32 powers are prepared to make definite engagements with all the rest, 9 prefer to make them only with states on whose responsibility they can rely, and 3 decline at present to commit themselves.

The second convention relates to the limitation of the employment of force for the collection of contractual debts. The form which this American proposition finally took is sufficiently shown by citing the text of its first article:

The contracting powers are agreed not to have recourse to armed force for the recovery of contractual debts claimed of the government of one country by the government of another country as due to its nationals.

Nevertheless, that agreement will not be valid when the debtor state refuses or leaves without reply an offer of arbitration, or, in case of acceptance, renders impossible the conclusion of a protocol, or, after arbitration, fails to comply with the judgment rendered.

It is also provided that the judgment shall determine the question whether or not the claim is well founded, the amount of the debt, and the time and mode of payment.

It is hardly necessary to point out that this convention is not only a very substantial gain in the process of substituting justice for force in international dealings, but demonstrates a spirit of conciliation and regard for equity in the treatment of the weak by the strong that promises well for the future. Its deep significance for the financial credit and the political security of the smaller states, especially on the American continents, does not require emphasis. Although accompanied with several reserves by certain states which hold that force should in no case be employed for the collection of debts based on contract, and the abstention of six of the smaller European states, the proposition was adopted by the conference by 39 votes with 5 abstentions.

The third, fourth, and fifth conventions relate to the opening of hostilities, the laws and customs of war on land, and the rights and duties of neutral powers. The provisions are, in general, in the interest of humanity, and a wider recognition of the world's brotherhood. The sixth, seventh, eighth, and ninth conventions relate to the prosecution of naval warfare.

The acceptance of the American proposition for the immunity of private property of belligerents at sea—which received 21 favorable votes in the fourth commission against 11, and 1 abstention—would, no doubt, have radically affected the substance of this group of conventions; but, being opposed by several of the most important naval powers, it was impossible to obtain for it the necessary support.

As several of these conventions rest upon no general principle whatever, but consist merely of concessions based upon the maritime interests of the powers, no attempt will be made to explain them here; for, in order to comprehend them, it is necessary to refer to the text of articles as interpreted by the *procés-verbaux* of the conference. The sixth and seventh conventions the American delegation did not sign, partly because they seem to be more oppressive to the rights of private property than the present customary law of nations, and partly because they appear to affect the rights of self-defense, which the United States, as a peaceful nation, has always maintained as correlative to customs of naval warfare which *have not yet been* abolished. If, on the other hand, the restrictions

upon submarine mines do not seem to humanitarians as radical as they would desire it, it must be remembered that nations with long and distant coast lines exposed to the attacks of powerful navies can not safely forego the right of self-protection even at considerable risk to peaceful commerce. As respects the bombardment of unfortified places by naval forces, the ninth convention prohibits such forms of attack, except when they contain military material for which surrender has been demanded and refused.

The tenth convention applies the principles of the revised Geneva convention to maritime warfare. The eleventh exempts from capture all postal correspondence, official or private, found at sea on any vessel, neutral or belligerent, as well as the boats of fishermen. The twelfth establishes an international prize court, to which appeal may be made from the decision of a belligerent prize court, under certain conditions, either by a neutral power, a neutral private person, or even a private individual belonging to a belligerent power, if the decision of the national tribunal concerns merchandise carried by a neutral ship. The thirteenth convention presents a code of thirty-three articles concerning the rights and duties of neutral powers in case of maritime war. It has not been signed by the American plenipotentiaries, for the reason that it imposes upon neutrals obligations which it might be practicable for them to discharge.

Such are the conventional engagements which the second peace conference at The Hague has proposed to the nations. In addition, it has adopted by 28 votes to 8, with 7 abstentions, a declaration prohibiting the throwing of projectiles and explosives from balloons. In a resolution stating that it is "highly desirable" to see the governments take up the serious study of the continued increase of military charges, it has merely absolved itself from the discussion of a question which it would be powerless to settle, and has thrown the responsibility for examining it upon the separate governments. As no one of them has made a definite proposition to diminish its military strength, it is difficult to see how the conference could take any other than this purely advisory attitude.

There remains the *voeux*. These unfulfilled aspirations are confessions that the conference has had hopes that it could not realize. Foremost among them is the proposed adoption of an elaborate project for the establishment of a court of arbitral justice, not to supersede but to supplement the present tribunal of arbitration. Originally suggested in the instructions of the American delegation, its present form is due to the collaboration of the delegates of the United States, Great Britain, and Germany. It is appended textually to the final act, and requires for completion nothing but an agreement for the choice of judges. The serious labor expended upon it is not lost, though its fruits may be late in maturing. It only remains for the powers to take up the project at the proper time through diplomatic channels, and thus carry to completion a great international institution.

The second *voeu* invites the competent authorities, in case of war, to consider it a special duty to assure and protect pacific relations between the populations of belligerent states and neutral countries. The third proposes that the situation of strangers established in the territory of the powers with regard to military burdens be made the subject of special conventions. The fourth urges the elaboration of

a code regarding the laws and customs of naval warfare by the next conference. Finally, the Third Peace Conference at The Hague is foreshadowed in the recommendation that, after an interval similar to that which has elapsed between the preceding and the recent meeting, a date be fixed for another by common agreement between the powers, that a sufficient notice be given in advance, and that two years before it is convened a special committee shall prepare its programme, and be charged with the proposal of its mode of organization and procedure.

Until that time the promotion of the peace and good understanding of the nations will probably be left to the methods of diplomacy. If the task remains difficult and delicate, it should certainly be less so than it was before the Second Peace Conference convened; but the experience of that assembly has made it more clearly evident that, as the work of schools and churches does not consist chiefly in educational and ecclesiastical congresses but in the steady, careful, and faithful performance of duty by the rank and file of the teachers and the clergy, so international conferences in the interest of peace and justice owe their fruits mainly to the care, the fidelity, and the competency of statesmen and diplomatists who maintain the daily relations between sovereign states. That this is, in truth, a serious business, affecting the welfare of all mankind, is becoming more evident as the interests of great nations are more and more closely intertwined by the growth of individual and commercial intercourse. Without the previous preparation for the recent conference by the action of the eminent Secretary of State of the United States, and the ripe experience and high prestige of the ambassadors whom the President sent to The Hague to head the American delegation, it would have been difficult to hold the place there which that delegation has held. If the results of the conference do not seem brilliant, it is not because noble ideals were not held steadily aloft, but because it is the function of an international conference simply to register the general average of progress that has been attained. However, this may be estimated, it represents the materials with which the diplomacy of the future has to deal.

The Results of the Second Hague Conference.

By Baron D'ESTOURNELLES DE CONSTANT.

[Reprinted from The Independent, November 21, 1907.]

During the first two months of the conference I was continually saying and writing that it would be a great deception, that it would consecrate the largest portion of its time to the amelioration rather than to the prevention of war. In this way I tried to recall to the conference the requirements of public opinion; it was my duty and it was in the interest of our work. The conference had, in fact, begun with the discussion of things relatively secondary, in accordance with the instructions the delegates had received from their governments. But, later on, during the last two months, it awoke, emancipated itself, was in every respect worthy of admiration—this justice I am bound to render to it. Gradually its ambition was aroused, and at length it devoted its energies spontaneously to the second part of its task—that is to say, to the principal programme, which it had not anticipated and which it was now obliged to improvise in its conscience. In order to arrive at this stage it was necessary that it should become, in some sort, a new assembly, a more independent assembly, a true moral person, living not only by virtue of the orders which each delegate received from his distant government, but also living its own proper life; it was necessary that it should become not solely an assembly of official representatives from all the states, but the collective representation of humanity.

I can not in a few lines explain this important phenomenon. I have spoken elsewhere of the potent and benevolent action exercised by M. Léon Bourgeois. I shall have something more to say of it, but to-day I can only direct attention to the fact that certain functionaries, certain ambassadors who had attained the summit of their career, found at The Hague an opportunity of rising still higher and of bettering and improving one another by the most generous and fruitful of rivalries. And for this very reason, after four months of intense and often excessive and ungrateful labor, all the delegates separated with a mixture of joy and sorrow, glad to be free to see again their country and their homes, but deeply affected by the thought that they were leaving a field of new action in which the seed had been so well sown. The seed, it is true, is still under ground, to the great satisfaction of the skeptics, but it will germinate even quicker still than that which was a subject of such mockery in 1899, and which did not at that time appear to have a better chance of successful growth.

The general deception of public opinion is explained by two motives, both to the honor of the conference.

First, it was not able to discuss the limitation of armaments. This question was not, in fact, on its programme. The conference could not study it, and no international assembly will ever be able to study it until it is the object of preliminary and national study in all the countries interested. A national study first, an international discussion afterwards. I have never ceased for a moment to insist on this, and notably in my report to the Interparliamentary Conference of London in 1906. If the conference had gone beyond this natural order it would have come to nothing; it therefore did well to recall to governments their duty and then pass on to other questions.

I will add that, whatever may be said to the contrary, the discussion on this question of limitation has not been useless, and, as far as I am concerned, my conscience is tranquil on this subject, for the more it is discussed, as long as it is declared that arbitration must first be organized, the more must the cause of international justice be necessarily served; it is a means of emphasizing more strongly the urgency of this organization. If the conference had not been obliged to put aside the limitation of armaments it would have been less energetic, perhaps, in seeking a compensation in the study of arbitration.

Secondly, the conference lasted four months, and yet the results it has achieved have been hardly apparent. That is its greatest merit. An assembly representing the world must surely be congratulated on having preferred the ungrateful preparation of durable solutions to delusive immediate solutions. Who is there, then, that can believe this labor of four months to be lost labor? The conference has preferred the satisfaction of duty accomplished to the eulogies of the press, always on the lookout for sensational news, and, in the present case, disappointed. Its confidence in the future was so well assured that it did not fear to dictate to the governments themselves the line of conduct they should have to follow. Enlightened by the difficulties of its own task, it has given them its experience as an example. It declared by a solemn decision that it limited its rôle to an action purely transitory, and that a Third Conference was necessary, and that after the Third Conference many others should ensue. Thus, of its own volition, it transformed its exceptional reunion into a simple session—the normal, regular, automatic session of a parliament of humanity. It did not fear to add to this declaration a recommendation not less essential—it demanded that the next sesion should be prepared at least two years in advance.

Is not this a brilliant testimony of confidence? A step forward on the road of universal progress?

How is it possible, moreover, not to admire, as a true revelation, the fact that three hundred delegates from all the states of the world have been able to discuss during four months the gravest, the most delicate questions, questions which no one ventures to touch upon even in a national assembly, and which for this reason were absolutely new? Yet they discussed them in all their details, discussed them thoroughly, with all the vivacity, all the passion, which such subjects entailed, but, nevertheless, without at any time the slightest disorder, the slightest difficulty arising during the discussion. What a clinching argument this is to the objections of those so-called statesmen who claim that the greatest interests of the world are exactly those which must be most carefully excluded from public discussion!

But, outside the great moral and preparatory results of the Second Conference of The Hague, I could cite a very large number of immediate results that are appreciable. Among the fourteen conventions elaborated and finally signed will be found very numerous dispositions tending to render war at once rarer and more difficult, and at the same time less inhuman. That is something, and I will return to it some other day.

The plan of a court of arbitration was studied at great length and finally elaborated. In the course of the discussion an entirely new principle, that of the moral equality of states, was brought forward. Now, it must surely be admitted that this principle would of itself have merited the examination of a peace conference. If it has not been entirely resolved, it is, at least, of great consequence that it has been freely and openly discussed. The governments will in their turn have to study it and, as a logical result, to name the judges of the court. The conference could not and ought not to take upon itself the solution of this problem. It has laid it down in all its terms; the governments will, in their turn, have to take action.

As to obligatory arbitration, is it nothing, then, to have affirmed its principle as an incontestable progress discussed only in its application? And does anyone think that this solemn affirmation is to remain negligible in the eyes of the world, and that the different peoples will not have it recorded, so that they may be able to recall it to their governments at the proper moment? And, besides, as to the question of application itself, thirty-five states out of forty-four have declared themselves ready to favor a general treaty of obligatory arbitration. Quite a mechanism of admirable simplification has been provided and accepted which permits all the states to be inscribed on a central tableau, and to replace by this simple formality an entire inextricable multitude of treaties, all differing from one another. This alone constitutes an innovation in every way worthy of the twentieth century. Who, then, will dare to claim that this agreement of the thirty-five liberal states of the world is without importance, on the pretext that a minority of the conference refused to accept it, or, at least, to affirm it by a general convention which that minority would alone have refrained from signing?

What does this prove? Simply this fact: The majority exists; it reckons more than three-fourths of the states. The minority took upon itself to prevent this agreement, but, in doing so, it has emphasized and strengthened it; on the other hand, it has laid bare the opposition of some states—or, more correctly, of a single state, Germany—dragging along with it in its resistance a great power, Austria, with Turkey, Roumania, Greece, Bulgaria, Belgium, Luxembourg, and Switzerland.

Yet, and I wish to repeat it, the representative of Germany was careful to state that he stood apart only with regard to the application, but that, as to the principle, he was a partisan of obligatory arbitration.

Thus the world was divided into two camps of very unequal importance. On one side was the mass of the states of the world, great and small, representing progress; on the other, Germany, representing the opposition, but an opposition already hesitating and pleading extenuating circumstances. If we recall the Germany of 1899 and if we note its progress since that epoch, we shall not be very much mis-

taken in predicting that, between now and the Third Conference, its progress will be even still more rapid and remarkable. Certainly, Germany has advanced very far from her position in 1899; she is still backward in relation to the other powers, but she will soon wish to catch up with the majority. This will be the result of the Conference of 1907, and particularly the work of the majority, which will have determined the general progress. But for it we should be absorbed in the platonic adoration of the memories of 1899. To-day we have thirty-five states out of forty-four demanding the convention of obligatory arbitration which we have drawn up and voted, and which we have only to sign. Even that is something, is it not?

The Americans, in that fine and peaceful discussion of several months, have been splendid, and the youngest of all was certainly my eminent friend, Mr. Choate, who defended, with all the force of his authority and talent, the work of the majority against the criticisms of Baron Marschall. He lost his case, say the ignorant, since the opposition triumphed. Not so; he won it, since he reduced the opposition to its simplest expression, not to say to a simple question of ciphers. "We are thirty-five," he said, "and you? I could count your numbers on a single hand." These words told and will remain. Humanity will not let itself be stopped by a minority of a few votes; or, rather, the minority will be converted.

General Porter, as a faithful soldier, has fought valiantly also: "I have enlisted for the war," said he, "and I will go on even to the end." He had the satisfaction of obtaining an almost unanimous vote from the conference and of preventing governments from having recourse henceforth to force for the recovery of debts from a state. It is a result that reflects much honor on the United States and that must give satisfaction to everybody.

I should have liked to say something of the services of Mr. Scott, Mr. Hill, Mr. Buchanan, Mr. Butler, and also of the able representatives of the other republics of America—Mexico, Brazil, Peru, Chile, Argentina, etc., but time does not permit it. I must content myself with declaring that America, as I have been constantly predicting for many years, has, beyond any doubt, saved the conference. But for America the conference was lost, cut in two, or, rather, would never have existed.

Thanks to America, a very important article was voted—article 48, which authorizes governments, in case of disputes, to address the bureau of The Hague directly and demand or propose arbitration. This mechanism has not been even noticed by the press, and yet it will be amply sufficient to put all the resources of arbitration in motion. Previously, when two states had a ground of quarrel, they were obliged to agree together to submit the question to arbitration, and such an agreement between two governments whose relations have become envenomed is almost impossible. To-day it is in the power of one of them to make its offer openly and thus force the second state to accept or decline that offer in presence of public opinion. It is a very great progress, although it may appear almost imperceptible, and henceforth a state that sincerely wishes to avoid war can reply to its aggressor: "I appeal to the judges of The Hague!"

Do you believe that the aggressor will be able to answer, "I care nothing for justice," without raising against him the entire public *opinion of the* world?

To conclude with a brief summary, the Second Conference of The Hague lasted four months, not because it did not effect anything, but because it found an immense field of labor before it. It has been a simple session between the First and Third Conferences, and it is the very modesty of its rôle that in my eyes constitutes the grandeur of its work. It has been only the continuation of the First Conference and the preparation for the Third. It has, in fine, demonstrated the possibility of creating a universal parliament by its own life and by the very length and regularity of its action.

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The Work of the Second Hague Peace Conference.

By James Brown Scott.

[Reprinted from the American Journal of International Law for January, 1908.]

The Second International Peace Conference, like its predecessor of 1899, endeavored to humanize the hardships necessarily incident to war and to substitute for a resort to arms a pacific settlement of international grievances, which, if unsettled, might lead to war or make the maintenance of pacific relations difficult and problematical. The conference of 1907, no more than its immediate predecessor, satisfied the leaders of humanitarian thought. War was not abolished, nor was peace legislated into existence. Universal disarmament was as unacceptable in 1907 as in 1899, and some few nations were still unwilling to bind themselves to refer all international disputes not involving independence, vital interests, or national honor to a court of arbitration.

Deeply interested in the success of these projects, the great public felt that their failure necessarily involved the failure of the conference, notwithstanding that many wise and humanitarian measures falling short of the goal were incorporated into the law of nations. But we should not in our disappointment, and perhaps bitterness of soul, overlook positive and beneficent progress, and if we could not take the advanced position outlined by the friends of peace, we should nevertheless rejoice that many a milestone has been passed. We must not forget that an international conference is different from a parliament; that independent and sovereign nations are not bound by majorities, and that positive results are obtained by compromising upon desirable but perhaps less advanced projects. The aim of a conference is to lay down a law for all, not for the many, much less for the few; to establish a law which will be international because it is accepted and enforced by all nations.

DEVELOPMENT OF INTERNATIONAL LAW.

The work of the conference concerned the modification of existing international law; international differences of opinion and interpretation were adjusted; doubt gave place to certainty, and, after much consideration and reflection, principles of international law were fortified, modified in part, or wholly discarded. A complete code was not established—it is doubtful whether custom and usage are ripe for codification—but important topics of international law were given the symmetry and precision of a code.

It may be maintained that international law is law in the strict sense of the word, or it may be contended that it lacks an essential

element of law, because there is no international sheriff; that it is international morality or ethics, or that finally a law of nations is the occupation of the theorist and the hope of the dreamer. However opinions may differ as to the nature of international law, there can be no doubt of the existence of certain rules and regulations which do by common consent control the conduct of independent nations; nor can there be any reasonable doubt that enlightened people of all countries take a deep and abiding interest in international law, and share the hope of the dreamer, not only that greater precision may be given to its principles, but that the principles themselves may be developed and applied with the certainty and precision of a municipal code.

From the cell of the cloister international law passed into the study of the philosopher, the jurist, and the scholar; from the study it entered the cabinets of Europe, and for two centuries and more a recognized system of international law has determined the foreign relations of nations; from the cabinet to courts of justice, where the rights of nations as well as individuals have been debated and enforced, and, finally, from the court room international law has made its way to the people, who, in last resort, dominate court and cabinet, and enlist in their service scholar as well as priest.

It was a wise remark of Sir James Mackintosh that constitutions are not made; they grow; for history demonstrates that unnatural unions dissolve; that unnatural alliances have little permanency; that constitutions struck off at the heat of a moment in times of excitement disappear with the causes to which they owe their origin. Constitutions are, in a large and broad sense of the word, codifications. They put into written and permanent form the usages and customs of the past, and they last because the spirit underlying these usages and customs is wrapped up with the existence and destiny of the people. The Constitution of the United States has lasted because it was based upon the usages and customs of England, as modified by the experience in the colonies, and the Constitution will last as long as it answers the needs of its framers, and no longer. To understand, however, the Constitution English customs and usages must be studied, and to predict the lines of development we must interpret the language of the Constitution in the light of its origin, as well as in the concrete case under investigation. It is the same with law. Law is not imposed as a system upon the people. Isolated usage develops into habit; the habit becomes crystallized into custom, and to custom there is given, consciously and unconsciously, the force of law.

The common law of England is not due to the wisdom of any one person or of any one age. It grew to meet a need; it changed with that need, and disappeared when it could no longer subserve a useful purpose. It is a growth, an organism, not a crystallization.

When, however, the process of development did not keep abreast of the age, or when new and unsuspected needs required special treatment, statutes made their appearance to supply the lack or to correct the evil. The statute would be special if a special point were involved. The statute would be general in its terms if the evil to be corrected were general, or the need of the statute was of a general, widespread nature. The more rapid the development of the country, the greater and more diversified become the needs of an enterprising

and progressive community, and consequently the more frequent would be and must be the resort to statutory enactments, in order to safeguard the rights and interests created as the result of changed conditions. Hence it follows that a system of law in its early stages springs directly out of the needs of the people. If the needs be simple, the law, of which custom is the very life, is simple. It is said to be unwritten in the sense that no custom is at once the law and the evidence, although in process of time the customs are naturally reduced to writing by people learned in customary law, and it is given precision by decrees of courts of justice. Complex situations give rise to a complex system of law, and the natural development of custom not being sufficient, the legislature steps in by statute to accelerate the development and to give to the system of law the precision, the solidity, and the refinement necessary for a complicated and progressive civilization. In this development, then, we have the local usage, the custom, and the statute.

If we turn from the common law to international law, we find that the course of development of the common law of nations has been singularly like that of the common law of England.

We first have the usages of enlightened nations. These usages spread, gain weight and influence by repeated application. We next find that the usages have taken on the form of custom, and nations from isolated or frequent usage regard the custom as binding upon them. That which is claimed as a right on the one side becomes a duty on the other, for right and duty are correlative. The demand in itself is a consent to the rule of law. The yielding to the demand is an acknowledgment of the rightfulness of the custom.

We thence have customary rules and regulations binding nations in their mutual intercourse, because the nations, either by enforcing the custom or yielding to the custom sought to be enforced, have given to the custom the weight of law. But just as the common law of England grew slowly, indeed imperceptibly, so have the usages of nations developed slowly and imperceptibly. When nations had little intercourse with one another, the need for a system of law regulating such relations was of little moment. As nations have grown, as they have come into closer contact, as no nation lives and can live in the modern world in a state of isolation, it necessarily follows that the usages and customs of nations must be developed in order adequately to meet changed conditions. The independence of the state is the very postulate of international law; but the solidarity of interest has made itself felt to such a degree that nations have yielded and must in the future yield something of their absolute liberty and independence, just as a citizen yields his absolute freedom for the benefit of society, of which he is a part.

We see, then, from this brief and imperfect sketch of the origin and nature of the common law of one particular jurisdiction, an analogy between the common law of nations, namely, the usages and customs of many nations. We find, or at least we can assume, that when only one nation existed there could be no international law. Two nations existing would have comparatively little intercourse, and the rules and regulations governing their intercourse would therefore be simple. As the two gave place to the many, and as intercourse become very frequent, the need of a more elaborate code would

become evident. Usage and custom would grow to meet the need, and in the course of time, insensibly and imperceptibly, usage and custom would take the dimensions of a code. But while that is entirely true generally, it is true with much greater force in the present and, indeed, in the immediate past; for the discovery of the New World, North and South America, and the contest for the possession of this world; the establishment of colonies with the various colonial systems, and the conflicts of interest that necessarily arose, would require a system of law adequate to settle them; and when nation became more closely connected, more intimately and frequently involved, it followed that the simplicity of the earlier usages and customs would either give place to a more complicated code or would themselves be developed in order to meet the growing needs.

CONGRESSES AND TREATIES.

Now, how could this be done? In this way. As nations became more closely united or related, previous usage or custom was found to be inadequate; but the spirit pervading the usage or custom was discovered and developed, precisely as the spirit in the common law was developed in order to meet a changed condition of affairs. Just as in appropriate cases the municipal legislature stepped in and corrected an abuse or covered a field by statute, conferences were held between rulers, treaties were negotiated to regulate a specific concrete controversy, and finally congresses, usually not at the beginning but at the end of the controversy, composed of many states, because the interests of many were concerned, were convened in order that that might remain settled in peace which had been established in war. The conference or congress is, it would seem, not far removed from an international legislature, whose acts are submitted *ad referendum* to the participating nations.

We therefore find that treaties mark the first general step in the development of the law of nations as between nations in recent years, for it is only in the modern world that treaties have gone far to correct inequality and to establish a system of international relations. The special or individual treaties will be comparatively simple in the prinicples of law announced or defined, although complicated in other respects. When the many were involved, a congress or conference came naturally into being, with the result that in this conference the questions causing the conflict would be considered and regulated, in the hope to prevent a recurrence of the conflict. The conferences and congresses were at the conclusion of a dispute. The appeal was indeed to reason, but it was unfortunately belated. Interesting examples of the post-mortem appeal to reason are furnished by the Treaty of Westphalia (1648), the Congress of Vienna (1814–15), the Congress of Paris (1856), the Congress of Berlin (1878). The Treaty of Westphalia was negotiated by representatives of the states engaged in the Thirty Years' War and the state of affairs established was hoped to be durable.

Passing over the conference and treaties concluding the wars of Louis XIV, of which the various treaties of Utrecht of 1713-14 were the most important and far-reaching in detail as well as in prinicple, we come to the Congres of Vienna, which attempted, by *a rigid and thorough* application of the principle of legitimacy, to

reconstruct Europe upon permanent lines after the crash of the French Revolution and the downfall of Napoleon. The great powers agreed among themselves and legislated for the rest of Europe. The work, therefore, was largely political, but as all were concerned all were present or bound by the determinations of the congress. It was preeminently a war conference, but it established peace—a peace which lasted for many years. At the same time its deliberations took the form of a general statute concerning river navigation, the rank of ambassadors, and the slave trade. Criticise the Congress of Vienna as we may, its work was not only of fundamental importance, but pointed the way to a better and brighter day.

Although it can not be denied that the Congress of Paris in 1856 was a war conference, its work was not wholly taken up with the issues of war. The Declaration of Paris, for example, was much more general and touched interests which, while involved in the conflict, were of wider importance than the immediate interests that led to the war or were safeguarded by the conclusion of peace. It is also true that the Congress of Berlin, in 1878, was a war congress, but it dealt particularly and largely with the Balkan Peninsula and set up a state of affairs which, while changed in part, is nevertheless the basis of order in Eastern Europe.

But alongside of these larger gatherings there were smaller meetings that have profoundly influenced the future. For example, an enthusiast in Switzerland interested countries in the treatment of sick and wounded and produced the first Geneva Convention of 1864—the Red Cross Convention, as we call it—to ameliorate the condition of the sick and wounded upon the field of battle. The convention did not come at the very end of a war; it was assembled by reason of the horrors of the war of 1859 between France and Italy against Austria. In 1868 the additional articles of the Convention of Geneva were drawn up in conference, and there was no immediate war that had caused the conference to assemble. The purport of these articles was to apply to naval warfare the principles of the Geneva Convention of 1864.

In 1868 the Czar of Russia, Alexander II, called a conference in order to consider whether or not the means of warfare might not be humanized; whether the use of certain instruments in warfare, or instruments of a certain kind, should be prohibited; whether bullets of a certain weight, of a certain explosive quality, should not be prohibited, and there was drawn up the Declaration of St. Petersburg. It is true that the declaration contemplated but was not preceded by war.

The conference that met in Brussels in 1874 upon the invitation of the Czar, and which drew up a project of an international declaration concerning the laws and customs of war, was not immediately preceded by a war: and although the project was not adopted by the powers represented, it was nevertheless the basis of the "convention dealing with the laws and customs of war" framed by the First Hague Peace Conference. The Brussels Conference undertook the codification of the laws of war—and in so far it can not be considered a peace conference—but it furnished the precious precedent of an international statute.

The various congresses and conferences referred to were summoned by the rulers and nations of Europe, and both in their calling

and in their results indicated an advance in public opinion. Public opinion, however, was not content to intrust itself wholly to nations and their rulers, but sought expression in individual and cooperative lines.

In 1873 the Institute of International Law was established at Brussels, composed of distinguished jurists and authorities on international law. Their purpose was not merely to study the problems of international law, but to advance the science by an appeal to reason. They considered the field of international law from the standpoint of theory and sought by example and precept to aid the codification of a rational system of international law. International law had thus a society whose proceedings should appear annually. It already had a journal, for in 1869 three enthusiasts, Rolin-Jaequemyns, Asser, and Westlake, established the Revue de Droit International et de Législation Comparée. The institute met annually and issued its annual. The Review discussed scientifically and at length important questions of international law, and, little by little, the influence of the institute and the review extended beyond the immediate country of publication and beyond the language in which the proceedings and the articles were written. A great movement looking toward advance in international lines was begun, and in reality the call of the Czar for the great conference of 1899, the First Hague Conference, was simply, paradoxical as it may seem, the substitution of national or international effort for the individual or socialized effort of the founders of the Institute of International Law.

FIRST HAGUE CONFERENCE.

In 1898 the Czar Nicholas called the First Peace Conference, designed chiefly, it would seem, to free nations from the burden of the constantly increasing armament by bringing about disarmament. The circular astonished the diplomats; it was not favorably received in many quarters. Thereupon a new circular was prepared enlarging the scope, relegating disarmament to a less important position, but enlarging the scope of the programme, or of the invitation, by including the consideration of various methods by which arbitration might be advanced and the peaceful solution of international difficulties made the rule. This second circular was much better received, and on the 18th day of May, 1899, the First Peace Conference of this modern world, without a war as its immediate cause, met at the House in the Woods at The Hague for the purely academic consideration of very great and important international questions.

As an understanding of the work of the First Conference is necessary to an appreciation of the recent Second Conference, the results of the deliberations of the First Conference are briefly set forth.

The work, then, of this conference took shape in three great conventions. The first was the convention for the peaceful settlement of international conflicts, which convention established, first, the right of nations to offer their good offices and mediation without having the offer or mediation considered as an unfriendly act by either or any of the contending parties; second, a commission of inquiry to ascertain the facts of an international difficulty of great and serious importance, so that the facts involved might be found impartially by a commission composed of neutrals as well as nationals. We all re-

call the Dogger Bank incident in Admiral Rojesvensky's remarkable tour of the world. Japanese vessels were supposed to be lying in wait in the North Sea. The Russian squadron opened fire. It is not related that any Japanese vessels were sunk, but certain English fishing smacks were injured and lives were lost. It is difficult to appreciate the state of mind of the Russian admiral, because one would not expect to find Japanese cruisers in the North Sea, or if one did find such cruisers, the fact of their presenee would be well known. However, the Russian authorities maintained that they felt the presence of the enemy, whether through a mistake of signaling or not; fire was opened and lives were lost. Were it not well established, this would be unbelievable; but it happened. And the next step was not an unbelievable one—the next step was war. Wars have arisen for less cause than that. The national honor of both countries was involved. Great Britain could not allow its subjects to be shot with impunity; Russia could not well consent to discipline its naval authorities without an investigation. Now, an investigation to be valuable must be impartial, must be conducted more or less by neutrals, and for the first time the provisions of the convention for the peaceful solution of international conflicts in the matter of commissions of inquiry were used. A report was made by this board finding the attack unjustified, and Russia settled the damages. Rulers of nations and their responsible governments often seek to avoid war, but are frequently unable to do so. Therefore this machinery was a godsend by which a bitter dispute between two countries concerning a matter of fact might be referred to an impartial board for examination and report. Without expressing any opinion, let me call your attention to the causes, at least to an incident if it were not a cause, which preceded the Spanish-American war—the blowing up of the *Maine* in Habana Harbor. Was it blown up from within or without? An international board never considered the question. An American board did consider the question. The public passions were inflamed, and we rushed headlong into war. If this international commission had existed at that time, the President of the United States would have been in an intrenched position, for he could have insisted that this matter, being a question of fact, be submitted to a commission of inquiry ready for constitution under rules of procedure accepted by civilized nations. I can not say that the Spanish-American war would not have taken place. I am not a prophet either as to future events or as to events of the past, but I do maintain that those clauses would have made the outbreak of war much more difficult, and that therefore the establishment of a commission of inquiry is a great advance for the cause of peace.

Third, the convention for the pacific solutions of international conflicts provided a court of arbitration. Perhaps I would better say, provided for a court of international arbitration, because that court was to be created when the international controversy arose. Each nation was to select and appoint and notify to a board created at The Hague not more than four persons of good moral character and competent in international law. In case of a conflict each party was to select two from this list of judges. The judges were to elect their umpire, their presiding officer, or the nations were to provide otherwise for the selection of the umpire. In order that the tribunal thus constituted might be of service and in order that litigants might

know the exact procedure to be followed before it, an elaborate system of procedure was drawn up and approved. Since the meeting of the First Hague Conference four great and important cases have been submitted to The Hague Tribunal, have been adjudicated, and the judgments cheerfully and promptly accepted by the litigating nations. Nations appeared before the bar as suitors and resorted to law instead of force. The court has not, however, been so successful as its framers hoped, largely because it is not a court permanently in session composed of judges or jurists acting under a sense of judicial responsibility. The fear of partiality in a court constituted by the suitors for a particular purpose, with judges chosen and paid by the litigants, would seem to account for the partial success, if not failure, of the institution.

The second great convention of the First Conference was the convention for the adaptation of the Red Cross to maritime warfare. That, of course, is a technical subject, but even the layman can see what a great advance it was to have the humane principles of the Geneva Convention of 1864 and the additional articles of 1868 applied to maritime warfare as well as land warfare.

The third great convention was the codification of the laws and customs of land warfare, which, composed by experts, assumed the proportions of an elaborate code. While based upon the laws and customs of war adopted by the Conference of Brussels (August 27, 1874), the declaration of Brussels drew its life and spirit from Dr. Francis Lieber's Instruction for the Government of Armies in the Field, known in army circles as General Orders, No. 100, of 1863. The United States may therefore claim not a little proprietary interest in this great convention of 1899.

Such is, in brief, the outline of the work of the First Hague Conference. Misunderstood at the time, subjected to ridicule by reformer as well as reactionary, the conference is now looked upon at once as the starting point and the center of international progress.

TWOFOLD WORK OF SECOND CONFERENCE.

The work of the Second Conference, for which the year 1907 will be remarkable, was twofold. First, it revised and enlarged the conventions of 1899 in the light of experience, in the light of practice as well as of theory, and put them forth to the world in a new and modified form. In the next place the conference did not limit itself to these subjects. To the three conventions of 1899, revised in 1907, were added ten new conventions. This simple statement shows the enormous field covered and the positive results achieved by the Second Conference within the comparatively short period of four months. Tried by the standards of results, the conference clearly justified its existence, but it would have been a success had it demonstrated nothing more than the possibility of the representatives of forty-four nations to live in peace and quiet during four months. If it had done nothing more than to bring these representatives into close contact to learn to understand one another's needs by understanding one another, the conference would have been a success.

But we can not content ourselves with a mere statement of results, *for the* conference must rise or fall, not by the amount accomplished, *not by the number of* conventions negotiated and signed, but by their

value and importance. As the various conventions, declarations, resolutions, and *voeux* of the conference have been incorporated in the Final Act and arranged in what seemed to the conference their order of importance, it appears advisable to discuss the various results of the conference in the order established by the Final Act. Perhaps a word of explanation is necessary as to the Final Act itself. It states the calling of the convention, enumerates the countries and their delegates taking part in the conference. But the Final Act is not a convention; it is rather a solemn statement of what was done, a summary or résumé of results indicated by the names and titles of the conventions, to be followed by the text in separate form.

The preamble of the Final Act states:

"The Second International Conference of Peace, proposed by the President of the United States of America, having been, upon the invitation of His Majesty the Emperor of All the Russias, convoked by Her Majesty the Queen of the Netherlands, met, on the fifteenth day of June, nineteen hundred and seven, at The Hague, in the Hall of Knights, in order to give a further and new development to the humanitarian principles which served as a basis for the first conference of 1809. The powers hereafter enumerated took part in the conference and designated as their delegates the following: Germany (arranged according to the French names of the countries), the United States of America," etc. The Final Act then continues:

"In a series of reunions held from the fifteenth day of June to the eighteenth day of October, nineteen hundred and seven, in which the delegates have constantly been animated by the desire to realize in the largest measure possible the generous views of the august initiator of the conference and the intentions of their Governments * * * ," the conference adopted "to be submitted to the signatures of the plenipotentiaries the texts of conventions and of the declaration hereinafter enumerated and annexed to the present act."

An examination of the text of the preamble of the Final Act clearly indicates that the conference was called by President Roosevelt. It is common knowledge that Russia was not in a position to call the conference during two eventful years. Time was slipping by and those who believed in conferences were anxious that a new conference should meet in order to take up the work outlined but left undone at the First Conference. Therefore President Roosevelt sent a circular to the various powers outlining a programme and requesting an expression of opinion as to the advisability of such a conference and assent to participation in it. The responses were favorable and it seemed not unlikely that the conference would meet under the auspices of President Roosevelt. However, a representative of Russia waited upon the President and requested that the initiative be transferred from the United States to the Czar, inasmuch as the Czar had called into being not merely the First Conference but the idea of the conference. With that chivalry which is characteristic of the President, he immediately yielded the initiative to the Emperor of Russia, the "august initiator," as he is called, and the conference was convoked by the Queen of Holland upon the invitation of the Czar. The United States was, however, unwilling that only a part of the world should be represented. Appropriate steps were therefore taken for the admission of Latin America, and assent was obtained by diplomatic correspondence. Two of the three conven-

tions of 1899 were open; that is to say, the nonsignatory states were invited to sign, and upon signing, to assume the obligations and benefits under the conventions. The convention for the peaceful settlement of international conflicts was a closed convention and the assent of the powers was necessary in order that the Latin-American States might be permitted to sign. The reason for this was that while the powers represented at the First Conference were willing to arbitrate and to enter into certain relations with the states represented at the First Conference, they were unwilling to contract generally. As one of the delegates said at the second convention, he was unwilling to open his door to any newcomer who chose to knock. No objection was made, however, to the adhesion of the Latin-American States, and on the 14th day of June, 1907, consent to their adherence was formally given.

In all, forty-four states were represented at the conference and forty-four states answered the roll call. Two states of Latin America were not represented, Costa Rica and Honduras. The former approved of the conference and adhered to the conventions of 1899, but was not represented. The absence of Honduras was explained by the recent revolution, which paralyzed its efforts. The restoration of peace led to an application to be admitted and the application was favorably acted upon. Delegates were appointed, but they did not arrive in time to participate in the work of the conference.

FIRST CONVENTION.

Following then the order of the Final Act, the first is the convention for the pacific solution of international conflicts, the nature of which has been sufficiently explained.

It should be said, however, that the commission of inquiry was much enlarged in the light of the experience—experience gained in the Dogger Bank incident, previously referred to. The language of the convention was carefully revised, provisions were given greater clearness, and a few sections added on summary procedure. The great framework of 1899 was untouched; for the additions of 1907 do not change the nature of the structure, although the architects of 1907 would doubtless pronounce the additions to be undoubted improvements.

SECOND CONVENTION.

The second is the convention restricting the use of force for the recovery of contract debts. This was introduced by the American delegation, loyally and devotedly seconded by Doctor Drago, who has battled for the doctrine to which he has given his name. Without the support of Doctor Drago, it is doubtful if Latin America—for whose benefit it was introduced—would have voted for this very important doctrine. The proposition is very short; it consists of but three articles, but we must not measure things by their size. In full it is as follows:

In order to avoid between nations armed conflicts of a purely pecuniary origin arising from contractual debts claimed from the government of one country by the government of another country to be due to its nationals, the contracting powers agree not to have recourse to armed force for the collection of such contractual debts.

However, this stipulation shall not be applicable when the debtor state refuses or leaves unanswered an offer to arbitrate, or, in case of acceptance, makes it impossible to formulate the terms of submission, or after arbitration, fails to comply with the award rendered.

It is further agreed that arbitration here contemplated shall be in conformity, as to procedure, with Title IV, Chapter III of the convention for the pacific settlement of international disputes adopted at The Hague, and that it shall determine, in so far as there shall be no agreement between the parties, the justice, and the amount of the debt, the time and mode of payment thereof.

In commenting upon the convention, President Roosevelt wisely and truly said that "such a provision would have prevented much injustice and extortion in the past." It is emphatically a peace measure, for the creditor renounces force and binds himself to submit his claim to arbitration. Pressure is thus brought upon the debtor to accept arbitration or take the consequences of a refusal. It should not be overlooked that these three paragraphs will banish foreign fleets from American waters, and American ports are not likely again to be blockaded, as in the past, for the collection of contract debts due from one government to citizens of the blockading nation. The Monroe doctrine has made its first and formal entry into the public law of Europe as well as America.

THIRD CONVENTION

The third convention relates to the opening of hostilities and provides, in Article I, that the contracting powers recognize that hostilities between them should not commence without notice, which shall be either in the form of a formal declaration of war or of an ultimatum in the nature of a declaration of conditional war. This is to protect belligerents from surprise and bad faith. Article II is meant to safeguard the rights of neutrals. The state of war should be notified without delay to neutral powers, and shall only affect them after the receipt of a notification, which may be sent even by telegram. However, neutral powers can not invoke the benefit of the absence of notification if it is established that the neutral powers know that war actually exists. Those two articles mean that while the nations should declare war, although they may perhaps rush into war without notification, neutrals are not to be subjected to the burdens of war until they have been fully notified and are, therefore, able to take the proper steps and measures to preserve their interests.

FOURTH CONVENTION.

The fourth convention concerns the laws and customs of land warfare. This has been previously stated to be a revision of the convention of 1899. It is highly technical and codifies in a humanitarian spirit the warfare of the present.

FIFTH CONVENTION.

The fifth convention attempts to regulate the rights and duties of neutral powers and of neutral persons in case of land warfare. Short, but important, its guiding spirit is expressed in the opening paragraph of the preamble, namely, to render more certain the rights and duties of neutral powers in case of warfare upon land and to regulate the situation of belligerent refugees in neutral territory. The framers

of the convention felt that although a fragment, it would at least define neutrality until it might be possible to regulate as a whole the situation of neutrals in their relation to belligerents. The nature of the convention is thus evident. Its further definition would involve us in technical details.

SIXTH CONVENTION.

The sixth is the convention concerning enemy merchant ships found in enemy ports or upon the high seas at the outbreak of hostilities. Custom forbids the capture of enemy vessels within the port of the enemy on the outbreak of hostilities and allows them a limited time to discharge or load their cargo and depart for their port of destination. The attempt was made to establish this custom or privilege as a right. The proposition, however, met with serious opposition and, instead of the right, the convention states that it is desirable that enemy ships be permitted freely to leave the port. The convention, therefore, was restrictive rather than declaratory of existing international practice. The same might be said of another provision of the convention concerning the treatment of enemy merchant ships upon the high seas. It may be said that the expression of a desire is tantamount to a positive declaration, but, strictly construed, the convention is not progressive. It lessens rights acquired by custom and usage, although it does, indeed, render the privilege granted universal. The American delegation, therefore, refrained from signing the convention.

SEVENTH CONVENTION.

The seventh convention deals with the transformation of merchant ships into ships of war, and it must be said that the positive results of this convention are of little or no practical value. The burning question was whether merchant ships might be transformed into men-of-war upon the high seas. As the transformation of merchant vessels into war vessels upon the high seas caused an international commotion during the recent Russo-Japanese war, Great Britain and the United States insisted that the transfer should only be allowed within the territorial jurisdiction of the transforming power. Some of the continental states, on the contrary, refused to renounce the exercise of the alleged right. The great maritime states were thus divided, and as the question was too simple and too plain to admit of compromise, it was agreed to drop it entirely for the present. In order, however, that something might remain of the careful and elaborate discussions of the subject, a series of regulations was drawn up regarding the transformation of merchant ships into vessels of war, declaratory of international custom. For example: The vessel transformed should be placed under the direct and immediate control and responsibility of the power whose flag it bears; that the vessel must bear the outward signs of a man of war; that the commander should be in the service of the state and duly commissioned; that his name should appear upon the list of officers of the navy; that the crew should be submitted to military discipline; that the vessel in its operations should conform itself to the customs of war, and that the transforming nation should notify, as soon as possible, the transformation of

the merchant vessel. It will be seen that all reference to the place of transformation was thus carefully eliminated and a series of unobjectionable and unquestionable resolutions declaratory of the international custom and practice was adopted. Indirectly, the rightfulness or wrongfulness of privateering was concerned, and inasmuch as the United States would not consent to abolish privateering unless the immunity of private property be safeguarded, the American delegation abstained from signing the convention.

EIGHTH CONVENTION.

The eighth convention relates to the placing of submarine automatic mines of contact, a subject of present and special interest to belligerents; while the interest of the neutral is very general. Warfare permits belligerents to attack and to destroy each other in order to bring about a state of calm and repose which we call peace, but the action of the belligerent should be confined to the belligerents themselves. Neutrals should be, as far as possible, unaffected. Mines break from their moorings and endanger neutral life and property. The conference, therefore, desires to regulate the use of mines in such a way as not to deprive the belligerents of a recognized and legitimate means of warfare, but to restrict, as far as possible, the damage to the immediate belligerents. The following articles were therefore agreed to:

ARTICLE 1. It is forbidden: (1) To use unanchored automatic contact mines, unless they are so constructed as to become innocuous at the latest one hour after control over them has been lost; (2) to place anchored automatic contact mines which do not become innocuous on carrying away their moorings; (3) to use torpedoes which do not become innocuous when they have missed their target.

ART. 2. It is forbidden to place automatic contact mines in front of the coasts and ports of the adversary with the sole object of intercepting commercial navigation.

ART. 3. When anchored automatic contact mines are used, all possible precautions should be taken for the safety of public navigation.

The belligerents engage, as far as possible, to provide that these mines shall become innocuous after a limited period of time, and in case they cease to be guarded, to give notice of the dangerous localities, as soon as military exigencies permit, by a notice to shipping which will also be communicated to the governments through diplomatic channels.

ART. 4. Any neutral power which places automatic contact mines in front of its coasts must observe the same rules and take the same precautions as those which are imposed upon belligerents.

The neutral powers must make known to shipping by previous notice, the regions where automatic contact mines are to be moored. This notice must be communicated speedily, as urgent, to the governments through diplomatic channels.

ART. 5. At the close of the war, the contracting parties engage to do everything in their power to remove, each for himself, the mines which it has placed.

As to anchored automatic contact mines which one of the belligerents has placed along the coast of the other, their situation shall be indicated by the power that has placed them to the other party and each power shall proceed in the shortest possible time to remove the mines which are found in its waters.

ART. 6. The signatory states which are not yet provided with improved mines, such as are required by this regulation, and which consequently can not actually conform to the rules established by articles 1 and 3, agree to transform, as soon as possible, their mines, so as to comply with the prescriptions mentioned above.

ART. 7. The stipulations of the present regulation are concluded for the duration of seven years or until the end of the Third Peace Conference, if this date is prior.

The contracting powers engage to consider again the question of the use of submarine automatic contact mines six months before the expiration of the period of the seven years, in case it has not been again taken up and decided by the Third Conference of Peace at a previous date.

In the absence of the stipulations of a new convention, the present regulation shall continue in force, unless this convention is denounced. The denunciation shall not take effect (with regard to the notifying power) until six months after the notification.

It was sought, notably by Great Britain, to prevent any nation from placing submarine mines beyond its territorial waters, namely, the 3-mile limit. It was objected to this that while the offensive use of mines might be limited, it was inadvisable, perhaps unreasonable, at the present time to limit the defensive use of mines. In one case the mines would be used as a means of attack; in the second place as a defense against aggression. The latter view commended itself to the conference, and, after much discussion, it was agreed not to introduce into the convention any provision upon the subject.

NINTH CONVENTION.

The ninth convention forbade the bombardment by naval forces of undefended harbors, villages, towns, or buildings. The presence, however, of military stores would permit bombardment of such ports for the sole purpose of destroying the stores, provided they were not destroyed or delivered up upon request. Notice, however, should be given of the intention to bombard. In like manner, the convention permitted the bombardment of such undefended places if provisions were not supplied upon requisition to the naval force. Bombardment, however, was not allowed for the collection of mere money contributions. It should be said that unoffending property was not to be bombarded or destroyed, and buildings and institutions devoted to a religious, scientific, or charitable purpose were expressly excluded from attack.

This convention will undoubtedly subserve a useful purpose and clear up a doubt which seems to have existed. The weight of opinion forbade the bombardment of undefended ports. The fear, however, that such ports might be attacked and held in order to enforce submission, rendered a convention on this subject, even although declaratory of international usage and custom, of no little moment. We all remember the Spanish-American war and the constant fear, however unfounded, that the Atlantic coast might be bombarded by the Spanish fleet.

TENTH CONVENTION.

The tenth convention adapted to maritime warfare the principles of the Geneva Convention of 1906. It is not necessary to describe this admirable document in detail. We are familiar with the Red Cross and its work, and there exists absolute unanimity of opinion that the sick and wounded upon the battlefield or upon the high seas should be cared for, irrespective of nationality. Humanity demands it and this demand has been carefully complied with. A word of history may, however, be permitted. The first Geneva Convention, dealing with land warfare, was drawn up in 1864. The additional articles of 1868, extending the principles of land warfare to naval warfare, failed of adoption. In 1899 the additional articles were

made the basis of a convention dealing with this question adopted at the First Hague Convention. Warfare, however, had changed since 1864 and it was felt that the provisions of the Geneva Convention of 1864 should keep pace with the changed conditions, so in 1906 the Geneva Convention of 1864 was revised and the present conference adapted the provisions of this revised convention of 1906 to naval warfare. It is not necessary to enlarge upon the importance of this convention. We understand it and are proud of the progress it marks, in succoring the sick and the wounded and mitigating in their extreme rigor the evils necessarily incident to war.

ELEVENTH CONVENTION.

The eleventh convention relates to certain restrictions in the exercise of the right of capture in maritime war. It is a modest document, but is all that was saved from the wreck of the immunity of private property. The American delegation urged the abolition of the right of capture of unoffending enemy private property upon the high seas, but great maritime powers such as Great Britain, France, Russia, and Japan were unwilling to relinquish this means of bringing the enemy to terms. A convention negotiated by powers having no great maritime interest might be a moral victory; it would not be of practical importance except as embodying in conventional form the advanced and radical views of this subject. But to return to the present convention. Chapter 1 frees from capture mail upon a vessel if not directed to or coming from a blockaded port. Chapter 2 frees from capture fishing smacks devoted solely to coastal fishing and small vessels engaged in local navigation. It is pleasing to note that the conference made the basis of its action the decision of the Supreme Court of the United States in the well-known case of The Paquette *Habana*, 1899 (175 U. S., 677). Chapter 3 regulated the legal condition of the crew of an enemy merchant vessel by providing that subjects of neutral states were exempt from capture and that subjects of the enemy state were likewise exempt from capture, provided they gave an oath not to serve during the continuance of the war. These provisions are indeed modest when we consider the vast subject involved. They are, however, humanitarian, and therefore to be commended.

TWELFTH CONVENTION.

The twelfth convention sought to establish an international court of prize, and there only remains the ratification of this convention by the contracting powers in order to call into being this great and beneficent institution. For years enlightened opinion has protested against the right of belligerents to pass final judgment upon the lawfulness of the capture of neutral property, and it is a pleasure to be able to state that the interests of the neutrals in the neutral prize are henceforward to be placed in the hands of neutral judges with a representation of the belligerents, in order that the rights of all concerned may be carefully weighed and considered.

It is understood that Norway intended to present a project for the establishment of a court of prize. It is a fact that both Germany and Great Britain presented a project for the establishment of a prize court at the first business session of the conference. The proj-

ects, however, were widely divergent. In one, the continental idea prevailed; in the other, the Anglo-Saxon idea dominated. It was impossible to convince either of the advantage of the other plan. Matters were at a standstill, when the American delegation, through Mr. Choate, proposed a basis of compromise which, accepted by both, resulted in the establishment of the court.

The provisions of this convention are technical and detailed as must be the case in which an institution is to be created and its jurisdiction and procedure defined within the compass of a single document. It is impossible, therefore, to discuss it at any length, but it would be an unpardonable omission if mention were not made of its salient features. In the first place, national prize courts are to officiate as in times past. One appeal is allowed from a national court to a higher court of the captor's country. Thereupon, at the expiration of two years an appeal may be taken directly from the national court and the case transferred from the national court to the international prize court at The Hague. This court thereupon becomes seized of the law and the facts involved in the case and the decision pronounced becomes final and binding upon the litigant parties.

It should be stated that while the prize court is chiefly a court for nations instead of for individuals, still the individual suitor, unless expressly prohibited by his country, may himself appeal and transfer the case, should his country be indisposed to appear before the bar as his representative. It may not be inappropriate to state that the institution of the court is in itself a recognition of the fact that the individual is not without standing in modern international law.

In discussing the matter of the prize court, President Roosevelt aptly said, in his recent message:

> Anyone who recalls the injustices under which this country suffered as a neutral power during the early part of the last century can not fail to see in this provision for an international prize court the great advance which the world is making toward the substitution of the rule of reason and justice in place of simple force. Not only will the international prize court be the means of protecting the interests of neutrals, but it is in itself a step toward the creation of the more general court for the hearing of international controversies of which reference has just been made. The organization and action of such a prize court can not fail to accustom the different countries to the submission of international questions to the decision of an international tribunal, and we may confidently expect the results of such submission to bring about a general agreement upon the enlargement of the practice.

THIRTEENTH CONVENTION.

The thirteenth convention concerns and seeks to regulate the rights and duties of neutral powers in case of maritime war. This is an elaborate codification of the rights and duties of neutrals in which the conference essayed to generalize and define on the one hand the rights of neutrals and the correlative duties of the belligerents, and in the second place to set forth in detail the duties of neutrals, thus safeguarding the rights of belligerents in certain phases of maritime warfare. The belligerents are forbidden to commit hostilities within the territory or the territorial waters of neutrals and are forbidden to make a neutral port or neutral territory the basis of naval operations. The neutral is likewise forbidden to permit such conduct; the belligerent is forbidden to equip, provision, or to procure ammunition for a warlike purpose within neutral ports, and the neutral is required to

prevent such use of its territory. The enemy men-of-war are forbidden to remain beyond a certain period in neutral harbors. If vessels of the other enemy be present, the order in which the vessels shall leave is prescribed, so that hostilities may not begin within neutral jurisdiction. There are other and important provisions in the convention which aim to codify existing custom, with the addition of provisions thought to be necessary or highly desirable. The result, however, was unsatisfactory to some of the larger maritime powers, which prefer their present regulations on the subject of neutrality or which were unwilling to accept the modifications proposed. The United States was not satisfied with certain provisions of the convention and reserved the right to study the project in detail before expressing a final opinion. It therefore abstained from voting and signing.

FOURTEENTH CONVENTION.

The fourteenth convention is a reenactment of the declaration of 1899 forbidding the launching of projectiles and explosives from balloons. The original declaration was agreed to for a period of five years, and as this period had expired the powers were without a regulation on the subject. The reenactment provided that the present declaration shall extend, not merely for a period of five years, but to the end of the Third Conference of Peace. It is difficult to say whether the declaration is important or not. It is, however, evidence of the fact that the conference believed that land and water offer a sufficient field for warfare without extending it to a newer element, the air.

SUMMARY OF THE CONVENTIONS.

Such is, in brief, the content of the fourteenth convention, including a declaration previously enumerated. The Final Act then passes to the less formal results: "The conference, inspired by the spirit of compromise and reciprocal concession which pervades its deliberations, adopted the following declarations which, reserving to each of the represented powers the benefit of its votes, allows them to affirm the principles which they consider as unanimously recognized.

It is unanimous: (1) In accepting the principle for obligatory arbitration; (2) in declaring that certain differences, and notably those relating to the interpretation and application of international conventional stipulations, are susceptible of being submitted to obligatory arbitration without any restriction.

It was a matter of great regret to the 32 powers voting in behalf of a general treaty of obligatory arbitration, against which there were only 9 votes recorded, that the opponents of this great and beneficient measure stood upon the rights of the minority to block the will of the majority; but as Germany and Austria refused to yield to the majority, and as an attempt to sign a special convention dealing with the subject, to be binding only on those who voted for it, would have created bitterness of feeling within and without the conference, it was deemed in the interest of international peace and good understanding to adopt the principle in the abstract without seeking to incorporate it in the concrete form of a convention. The future, however, is very bright. There is no reason to prevent the 32 powers from negotiating individual and separate treaties and thus accomplish indirectly and

beyond the confines of The Hague what might and would have been accomplished but for the determined opposition of two great but unconverted powers.

RESOLUTION REGARDING MILITARY BURDENS.

In the next place, to continue the reading of the Final Act, the conference adopted unanimously the following resolution:

The Second Conference of Peace reaffirms the resolution adopted by the conference of 1899 regarding the limitation of military charges, and considers that these military burdens have considerably increased in almost all the countries since the last date. The conference declares that it is especially to be desired that the governments should undertake again the serious study of this question.

The friends of peace regarded the failure to limit the burden of armaments as a misfortune. There is much, however, to be said for the haste that makes slowly. The problem of disarmament or limitation of armaments is a very serious one. It is much more serious than the pacifists would have us believe. Shall all disarm at one and the same time? If that were possible we could solve the question at once; but the fear that some may not disarm while others do, and the further fear that the large powers have not really lost the appetite for the weaker, must make one pause. Germany consented to the passage of the resolution, Great Britain supported it, and, in accordance with direct instructions from the Secretary of State, the American delegation voted for the measure.

RECOMMENDATION OF ESTABLISHMENT OF COURT OF ARBITRATION.

The Final Act then proceeds to enumerate five recommendations, the first and last of which should be discussed.

The conference recommends to the signatory powers the adoption of the project hereunto annexed of a convention for the establishment of a court of arbitral justice and its putting into effect as soon as an agreement shall have been reached as to the choice of the judges and the constitution of the court.

The project referred to as annexed and made a part of the recommendation is a careful convention consisting of thirty-five articles, providing for the organization, jurisdiction, and procedure of a permanent court of arbitration, composed of permanent judges, versed in the existing systems of law of the modern civilized world. The conference was unable to agree upon the precise method of appointing the judges for the court, but recommended that this court be established upon the basis of the project approved by it and annexed to the recommendation as soon as the signatory powers should agree upon the method of appointing judges. The number of powers necessary is not specified, nor is the number of judges determined, as in the court of prize. It therefore follows that any number of powers may agree to make the project the basis of the court and the court is established. It would thus seem that we are in the presence of the realization of centuries of hope.

The fate of the court was long in suspense. The opposition to it was bitter at times. It was more difficult to carry than the prize court, because there was no international court of prize whereas there is a permanent court of arbitration—The Hague Court—although *permanent* in name only and constituted from a list of judges for

each case submitted to it. The existence, however, of the permanent court made it more difficult to establish the new one, and it was not until the last day but one of the Conference that the project was adopted and referred to the powers by the unanimous vote of the nations present and voting. Perhaps it would be advisable to quote the first paragraph of the project in order that the exact nature of the court may be evident. It is as follows:

In order to further the cause of arbitration, the contracting powers agree to organize, without injury to the permanent court of arbitration, a court of arbitral justice, free and easy of access, composed of judges representing the juridical systems of the world and capable o fassuring the continuity of arbitral jurisprudence.

It is proper to state that the project was essentially an American project, although presented conjointly by Germany and Great Britain, and the establishment of the court in the near future will be an American triumph. President Roosevelt, in his recent message to Congress, commented as follows upon this recommendation:

Substantial progress was also made toward the creation of a permanent judicial tribunal for the determination of international causes. There was very full discussion of the proposal for such a court and a general agreement was finally reached in favor of its creation. The conference recommended to the signatory powers the adoption of a draft upon which it agreed for the organization of the court, leaving to be determined only the method by which the judges should be selected. This remaining unsettled question is plainly one which time and good temper will solve.

I believe you will search in vain for any work of a more far-reaching nature accomplished within the past centuries. The dream of Henry IV, the hope of William Penn, both of whom prepared projects for a court of nations, seem, if not wholly to have been realized, within the very grasp of our generation.

THIRD PEACE CONFERENCE.

The friends of peace and arbitration had wished to make the conference at The Hague a permanent institution, meeting at regular and stated intervals known in advance. The American delegation had the honor to urge the adoption of such a resolution or recommendation and succeeded in substance, although the language is not so clear and crisp as one would like to see it. The exact wording of the recommendation follows:

Finally, the conference recommends to the powers the reunion of a third peace conference to take place within a period analogous to that which has elapsed since the preceding conference (eight years) at a date to be fixed by common agreement among the powers, and the conference call their attention to the necessity of preparing the programme of the Third Conference far enough in advance in order that its deliberations may take place with indispensable authority and rapidity.

In order to reach this end, the conference considers it very desirable that two years before the probable reunion of the conference a preparatory committee be charged by the governments with the duty of collecting the different propositions to be submitted to the conference, of discovering matters susceptible of future international regulation, and of preparing a programme which the governments shall determine so that it may be attentively studied in each country. This committee shall propose a mode of organization and procedure for the conference.

The meaning of this recommendation is obvious. Whatever power may call the conference, the interested governments are to prepare the

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In order to reach this end, the conference considers it very desirable that two years before the probable reunion of the conference a preparatory committee be charged by the governments with the duty of collecting the different propositions to be submitted to the conference, of discovering matters susceptible of future international regulation, and of preparing a programme which the governments shall determine so that it may be attentively studied in each country. This committee shall propose a mode of organization and procedure for the conference.

The meaning of this recommendation is obvious. Whatever power may call the conference, the interested governments are to prepare the

programme and devise rules for the organization and procedure of the conference. In other words, the conference ceases to be Russian in becoming international.

A LANDMARK IN INTERNATIONAL DEVELOPMENT.

Enough has been said to show that this conference, which lasted four months, and which was subjected to criticism in all parts of the world and to misrepresentations in the journals, has not only justified its calling, but that it is a landmark in international development.

Our great concern must be, as far as possible, to humanize war as long as war exists. The greater task is to remove the causes of war so that nations may not be hurried into war, or that friction, developed by the failure to solve or adjust conflicts, may not permit nations slowly but surely to drift into war.

Leaving out minor matters, this conference did four things:

1. It provided for a meeting of a third conference within an analogous period—namely, eight years, to be under the control of the powers generally, instead of the control of any one of them.
2. It adopted a convention for the nonforcible collection of contract debts, substituting arbitration and an appeal to reason for force and an appeal to arms.
3. It established a prize court to safeguard neutrals, and
4. It laid the foundations of, if it did not put the finishing stone to, a great court of arbitration.

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60TH CONGRESS } SENATE { DOCUMENT
1st Session } { No. 436

Special Message

OF THE

PRESIDENT OF THE UNITED STATES

COMMUNICATED TO THE

TWO HOUSES OF CONGRESS

ON

April 14, 1908

(First Session of the Sixtieth Congress)

APRIL 14, 1908.—Read; referred to the Committee on Naval Affairs and ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

SPECIAL MESSAGE.

To the Senate and House of Representatives:

Let me again urge upon the Congress the need of providing for four battle ships of the best and most advanced type at this session. Prior to the recent Hague Conference it had been my hope that an agreement could be reached between the different nations to limit the increase of naval armaments, and especially to limit the size of warships. Under these circumstances I felt that the construction of one battle ship a year would keep our Navy up to its then positive and relative strength. But actual experience showed not merely that it was impossible to obtain such an agreement for the limitation of armaments among the various leading powers, but that there was no likelihood whatever of obtaining it in the future within any reasonable time. Coincidentally with this discovery occurred a radical change in the building of battle ships among the great military nations—a change in accordance with which the most modern battle ships have been or are being constructed, of a size and armament which doubles, or more probably trebles, their effectiveness. Every other great naval nation has or is building a number of ships of this kind; we have provided for but two, and therefore the balance of power is now inclining against us. Under these conditions, to provide for but one or two battle ships a year is to provide that this Nation, instead of advancing, shall go backward in naval rank and relative power among the great nations. Such a course would be unwise for us if we fronted merely on one ocean, and it is doubly unwise when we front on two oceans. As Chief Executive of the Nation, and as Commander in Chief of the Navy, there is imposed upon me the solemn responsibility of advising the Congress of the measures vitally necessary to secure the peace and welfare of the Republic in the event of international complications which are even remotely possible. Having in view this solemn responsibility, I earnestly advise that the Congress now provide four battle ships of the most advanced type. I can not too emphatically say that this is a measure of peace and not of war. I can conceive of no circumstances under

which this Republic would enter into an aggressive war; most certainly, under no circumstances would it enter into an aggressive war to extend its territory or in any other manner seek material aggrandizement. I advocate that the United States build a navy commensurate with its powers and its needs, because I feel that such a navy will be the surest guaranty and safeguard of peace. We are not a military nation. Our Army is so small as to present an almost absurd contrast to our size, and is properly treated as little more than a nucleus for organization in case of serious war. Yet we are a rich Nation, and undefended wealth invites aggression. The very liberty of individual speech and action, which we so prize and guard, renders it possible that at times unexpected causes of friction with foreign powers may suddenly develop. At this moment we are negotiating arbitration treaties with all the other great powers that are willing to enter into them. These arbitration treaties have a special usefulness because in the event of some sudden disagreement they render it morally incumbent upon both nations to seek first to reach an agreement through arbitration, and at least secure a breathing space during which the cool judgment of the two nations involved may get the upper hand over any momentary burst of anger. These arbitration treaties are entered into not only with the hope of preventing wrongdoing by others against us, but also as a proof that we have no intention of doing wrong ourselves.

Yet it is idle to assume, and from the standpoint of national interest and honor it is mischievous folly for any statesman to assume, that this world has yet reached the stage, or has come within measurable distance of the stage, when a proud nation, jealous of its honor and conscious of its great mission in the world, can be content to rely for peace upon the forbearance of other powers. It would be equally foolish to rely upon each of them possessing at all times and under all circumstances and provocations an altruistic regard for the rights of others. Those who hold this view are blind indeed to all that has gone on before their eyes in the world at large. They are blind to what has happened in China, in Turkey, in the Spanish possessions, in Central and South Africa, during the last dozen years. For centuries China has cultivated the very spirit which our own peace-at-any-price men wish this country to adopt. For centuries China has refused to provide military forces and has treated the career of the soldier as inferior in honor and regard to the career of the merchant or of the man of letters. There never has been so large an empire which for so long a time has so resolutely proceeded on *the theory of doing* away with what is called "militarism." Whether

the result has been happy in internal affairs I need not discuss; all the advanced reformers and farsighted patriots in the Chinese Empire are at present seeking (I may add, with our hearty good will) for a radical and far-reaching reform in internal affairs. In external affairs the policy has resulted in various other nations now holding large portions of Chinese territory, while there is a very acute fear in China lest the Empire, because of its defenselessness, be exposed to absolute dismemberment, and its well-wishers are able to help it only in a small measure, because no nation can help any other unless that other can help itself.

The State Department is continually appealed to to interfere on behalf of peoples and nationalities who insist that they are suffering from oppression; now Jews in one country, now Christians in another; now black men said to be oppressed by white men in Africa. Armenians, Koreans, Finns, Poles, representatives of all appeal at times to this Government. All of this oppression is alleged to exist in time of profound peace, and frequently, although by no means always, it is alleged to occur at the hands of people who are not very formidable in a military sense. In some cases the accusations of oppression and wrongdoing are doubtless ill-founded. In others they are well founded, and in certain cases the most appalling loss of life is shown to have occurred, accompanied with frightful cruelty. It is not our province to decide which side has been right and which has been wrong in all or any of these controversies. I am merely referring to the loss of life. It is probably a conservative statement to say that within the last twelve years, at periods of profound peace, and not as the result of war, massacres and butcheries have occurred in which more lives of men, women, and children have been lost than in any single great war since the close of the Napoleonic struggles. To any public man who knows of the complaints continually made to the State Department there is an element of grim tragedy in the claim that the time has gone by when weak nations or peoples can be oppressed by those that are stronger without arousing effective protest from other strong interests. Events still fresh in the mind of every thinking man show that neither arbitration nor any other device can as yet be invoked to prevent the gravest and most terrible wrongdoing to peoples who are either few in numbers or who, if numerous, have lost the first and most important of national virtues—the capacity for self-defense.

When a nation is so happily situated as is ours—that is, when it has no reason to fear or to be feared by its land neighbors—the fleet

is all the more necessary for the preservation of peace. Great Britain has been saved by its fleet from the necessity of facing one of the two alternatives—of submission to conquest by a foreign power or of itself becoming a great military power. The United States can hope for a permanent career of peace on only one condition, and that is, on condition of building and maintaining a first-class navy; and the step to be taken toward this end at this time is to provide for the building of four additional battle ships. I earnestly wish that the Congress would pass the measures for which I have asked for strengthening and rendering more efficient the Army as well as the Navy; all of these measures as affecting every branch and detail of both services are sorely needed, and it would be the part of far-sighted wisdom to enact them all into laws, but the most vital and immediate need is that of the four battle ships.

To carry out this policy is but to act in the spirit of George Washington; is but to continue the policies which he outlined when he said, "Observe good faith and justice toward all nations. Cultivate peace and harmony with all. * * * Nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded and that in place of them just and amicable feelings toward all should be cultivated. * * *

"I can not recommend to your notice measures for the fulfillment of our duties to the rest of the world without again pressing upon you the necessity of placing ourselves in a condition of complete defense and of exacting from them the fulfillment of their duties toward us. The United States ought not to indulge a persuasion that, contrary to the order of human events, they will forever keep at a distance those painful appeals to arms with which the history of every other nation abounds. There is a rank due to the United States among nations which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, one of the most powerful instruments of our rising prosperity, it must be known that we are at all times ready for war."

THEODORE ROOSEVELT.

The WHITE HOUSE, *April 14, 1908.*

60TH CONGRESS } 1st Session } SENATE { DOCUMENT No. 444

THE SECOND INTERNATIONAL PEACE CONFERENCE

HELD AT THE HAGUE
FROM JUNE 15 TO OCTOBER 18, 1907

INSTRUCTIONS TO AND REPORT FROM DELEGATES OF THE UNITED STATES, CONVENTIONS AND DECLARATIONS, FINAL ACT, WITH DRAFT OF CONVENTION RELATIVE TO THE CREATION OF A JUDICIAL ARBITRATION COURT, AND SIGNATURES TO THE CONVENTIONS

PRESENTED BY MR. CULLOM

April 21, 1908.—Injunction of secrecy removed and ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

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The transformation of merchant vessels into war ships.

The private property of belligerents at sea.

The length of time to be granted to merchant ships for their departure from ports of neutrals or of the enemy after the opening of hostilities.

The rights and duties of neutrals at sea; among others, the questions of contraband, the rules applicable to belligerent vessels in neutral ports; destruction, in cases of *vis major*, of neutral merchant vessels captured as prizes.

In the said convention to be drafted, there would be introduced the provisions relative to war on land that would be also applicable to maritime warfare.

4. Additions to be made to the Convention of 1899 for the adaptation to maritime warfare of the principles of the Geneva Convention of 1864.

We are advised by the ambassador of Russia, in a note dated March 22/April 4, 1907, that all of the Powers have declared their adhesion to this tentative programme. The following remarks, however, have been made in respect thereof:

The Government of the United States has reserved to itself the liberty of submitting to the Conference two additional questions, viz, the reduction or limitation of armaments and the attainment of an agreement to observe some limitations upon the use of force for the collection of ordinary public debts arising out of contracts.

The Spanish Government has expressed a desire to discuss the limitation of armaments.

The British Government has given notice that it attaches great importance to having the question of expenditures for armament discussed at the Conference, and has reserved to itself the right of raising it.

The Governments of Bolivia, Denmark, Greece, and the Netherlands have reserved to themselves, in a general way, the right to submit to the consideration of the Conference subjects not specially enumerated in the programme.

Several Governments have reserved the right to take no part in any discussion which may appear unlikely to produce any useful result.

The Russian note proposing the programme declared that the deliberations of the contemplated meetings should not deal with the political relations of the different States, or the condition of things established by treaties; and that neither the solution of the questions brought up for discussion, nor the order of their discussion, nor the form to be given to the decisions reached, should be determined in advance of the Conference. We understand this view to have been accepted.

In regard to the two questions which were not included in the proposed programme, but which the United States has reserved the right to present to the Conference, we understand that notice of the reservation has been communicated to all the Powers by note similar to that from the Russian ambassador dated March 22/April 4, 1907; so that each Power has had full opportunity to instruct its delegates in respect thereof. The United States understands that as to the topics included in the programme the acceptance of the programme involves a determination that such topics shall be considered by the Conference, subject to the reserved rights of particular Powers to refrain from discussion of any topic as to which it deems that discussion will not be useful; but that as to the two topics which we have reserved the right to present, there has been no determination one way or the other; the question whether they shall be considered by the Conference remaining for the determination of the Conference itself in case they shall be presented.

It is not expedient that you should be limited by too rigid instructions upon the various questions which are to be discussed, for such a course, if pursued generally with all the delegates, would make the discussion useless and the Conference a mere formality. You will, however, keep in mind the following observations regarding the general policy of the United States upon these questions:

1. In the discussions upon every question it is important to remember that the object of the Conference is agreement, and not compulsion. If such conferences are to be made occasions for trying to force nations into positions which they consider against their interests, the Powers can not be expected to send representatives to them. It is important also that the agreements reached shall be genuine and not reluctant. Otherwise they will inevitably fail to receive approval when submitted for the ratification of the Powers represented. Comparison of views and frank and considerate explanation and discussion may frequently resolve doubts, obviate difficulties, and lead to real agreement upon matters which at the outset have appeared insurmountable. It is not wise, however, to carry this process to the point of irritation. After reasonable discussion, if no agreement is reached, it is better to lay the subject aside, or refer it to some future conference in the hope that intermediate consideration may dispose of the objections. Upon some questions where an agreement by only a part of the Powers represented would in itself be useful, such an agreement may be made, but it should always be with the most unreserved recognition that the other Powers withhold their concurrence with equal propriety and right.

The immediate results of such a conference must always be limited to a small part of the field which the more sanguine have hoped to see covered; but each successive conference will make the positions reached in the preceding conference its point of departure, and will bring to the consideration of further advances towards international agreement opinions affected by the acceptance and application of the previous agreements. Each conference will inevitably make further progress and, by successive steps, results may be accomplished which have formerly appeared impossible.

You should keep always in mind the promotion of this continuous process through which the progressive development of international justice and peace may be carried on; and you should regard the work of the Second Conference, not merely with reference to the definite results to be reached in that Conference, but also with reference to the foundations which may be laid for further results in future conferences. It may well be that among the most valuable services rendered to civilization by this Second Conference will be found the progress made in matters upon which the delegates reach no definite agreement.

With this view, you will favor the adoption of a resolution by the Conference providing for the holding of further conferences within fixed periods and arranging the machinery by which such conferences may be called and the terms of the programme may be arranged, without awaiting any new and specific initiative on the part of the Powers or any one of them.

Encouragement for such a course is to be found in the successful working of a similar arrangement for international conferences of the American Republics. The Second American Conference, held in

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Mexico in 1901–2, adopted a resolution providing that a third conference should meet within five years and committed the time and place and the programme and necessary details to the Department of State and representatives of the American States in Washington. Under this authority the Third Conference was called and held in Rio de Janeiro in the summer of 1906 and accomplished results of substantial value. That Conference adopted the following resolution:

The Governing Board of the International Bureau of American Republics (composed of the same official representatives in Washington) is authorized to designate the place at which the Fourth International Conference shall meet, which meeting shall be within the next five years; to provide for the drafting of the programme and regulations and to take into consideration all other necessary details; and to set another date in case the meeting of the said conference can not take place within the prescribed limit of time.

There is no apparent reason to doubt that a similar arrangement for successive general international conferences of all the civilized Powers would prove as practicable and as useful as in the case of the twenty-one American States.

2. The policy of the United States to avoid entangling alliances and to refrain from any interference or participation in the political affairs of Europe must be kept in mind, and may impose upon you some degree of reserve in respect of some of the questions which are discussed by the Conference.

In the First Conference the American delegates accompanied their vote upon the report of the committee regarding the limitation of armaments by the following declaration:

That the United States, in so doing, does not express any opinion as to the course to be taken by the States of Europe. This declaration is not meant to indicate mere indifference to a difficult problem, because it does not affect the United States immediately, but expresses a determination to refrain from enunciating opinions upon matters into which, as concerning Europe alone, the United States has no claim to enter. The words drawn up by M. Bourgeois, and adopted by the first commission, received also the cordial interest and sympathy with which the United States, while carefully abstaining from anything that might resemble interference, regards all movements that are thought to tend to the welfare of Europe.

Before signing the arbitration convention of the First Conference the delegates of the United States put upon record the following declaration:

Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions or policy or internal administration of any foreign State; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions.

These declarations have received the approval of this Government, and they should be regarded by you as illustrating the caution which you are to exercise in preventing our participation in matters of general and world-wide concern from drawing us into the political affairs of Europe.

3. The attitude of the United States as to consideration of the subject of limiting armaments was stated in a letter from the Secretary of State to the Russian ambassador dated June 7, 1906. That letter, after expressing assent to the enumeration of topics in the Russian programme, proceeded to say:

The Government of the United States is, however, so deeply in sympathy with the *noble and humanitarian* views which moved His Imperial Majesty to the calling of

the First Peace Conference that it would greatly regret to see those views excluded from the consideration of the Second Conference. [Quoting from the call for the First Conference.]

The truth and value of the sentiments thus expressed are surely independent of the special conditions and obstacles to their realization by which they may be confronted at any particular time. It is true that the First Conference at The Hague did not find it practicable to give them effect, but long-continued and patient effort has always been found necessary to bring mankind into conformity with great ideals. It would be a misfortune if that effort, so happily and magnanimously inaugurated by His Imperial Majesty, were to be abandoned.

This Government is not unmindful of the fact that the people of the United States dwell in comparative security, partly by reason of their isolation and partly because they have never become involved in the numerous questions to which many centuries of close neighborhood have given rise in Europe. They are, therefore, free from the apprehensions of attack which are to so great an extent the cause of great armaments, and it would ill become them to be insistent or forward in a matter so much more vital to the nations of Europe than to them. Nevertheless, it sometimes happens that the very absence of a special interest in a subject enables a nation to make suggestions and urge considerations which a more deeply interested nation might hesitate to present. The Government of the United States, therefore, feels it to be its duty to reserve for itself the liberty to propose to the Second Peace Conference, as one of the subjects of consideration, the reduction or limitation of armaments, in the hope that, if nothing further can be accomplished, some slight advance may be made toward the realization of the lofty conception which actuated the Emperor of Russia in calling the First Conference.

The First Conference adopted the following resolutions:

The Conference is of opinion that the restriction of military charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind.

The Conference expresses the wish that the Governments, taking into consideration the proposals made at the Conference, may examine the possibility of an agreement as to the limitation of armed forces by land and sea and of war budgets.

Under these circumstances this Government has been and still is of the opinion that this subject should be regarded as unfinished business, and that the Second Conference should ascertain and give full consideration to the results of such examination as the Governments may have given to the possibility of an agreement pursuant to the wish expressed by the First Conference. We think that there should be a sincere effort to learn whether, by conference and discussion, some practicable formula may not be worked out which would have the effect of limiting or retarding the increase of armaments.

There is, however, reason to believe not only that there has been the examination by the respective Governments for which the First Conference expressed a wish, but that the discussion of its results has been forestalled by a process of direct communication between a majority of the Governments having the greatest immediate interest in the subject. These communications have been going on actively among the different Governments for nearly a year, and as a result at least four of the European Powers have announced their unwillingness to continue the discussion in the Conference. We regret that the discussion should have taken place in this way rather than at the Conference, for we are satisfied that a discussion at the Conference would have afforded a greater probability of progress towards the desired result. The fact, however, can not be ignored.

If any European power proposes consideration of the subject, you will vote in favor of consideration and do everything you properly can to promote it. If, on the other hand, no European power proposes consideration of the subject, and no new and affirmative evidence is

presented to satisfy you that a useful purpose would be subserved by your making such a proposal, you may assume that the limitations above stated by way of guidance to your action preclude you from asking the Conference to consider the subject.

4. The other subject which the United States specifically reserved the right to propose for consideration is the attainment of an agreement to observe some limitation upon the use of force for the collection of ordinary public debts arising out of contract.

It has long been the established policy of the United States not to use its Army and Navy for the collection of ordinary contract debts due to its citizens by other Governments. This Government has not considered the use of force for such a purpose consistent with that respect for the independent sovereignty of other members of the family of nations which is the most important principle of international law and the chief protection of weak nations against the oppression of the strong. It seems to us that the practice is injurious in its general effect upon the relation of nations and upon the welfare of weak and disordered States, whose development ought to be encouraged in the interests of civilization; that it offers frequent temptation to bullying and oppression and to unnecessary and unjustifiable warfare. It is doubtless true that the nonpayment of such debts may be accompanied by such circumstances of fraud and wrongdoing or violation of treaties as to justify the use of force; but we should be glad to see an international consideration of this subject which would discriminate between such cases and the simple nonperformance of a contract with a private person, and a resolution in favor of reliance upon peaceful means in cases of the latter class.

The Third International Conference of the American States, held at Rio de Janeiro in August, 1906, resolved:

> To recommend to the Governments therein that they consider the point of inviting the Second Peace Conference at The Hague to examine the question of the compulsory collection of public debts, and, in general, means tending to diminish between nations conflicts having a peculiarly pecuniary origin.

You will ask for the consideration of this subject by the Conference. It is not probable that in the first instance all the nations represented at the Conference will be willing to go as far in the establishment of limitations upon the use of force in the collection of this class of debts as the United States would like to have them go, and there may be serious objection to the consideration of the subject as a separate and independent topic. If you find such objections insurmountable, you will urge the adoption of provisions under the head of arbitration looking to the establishment of such limitations. The adoption of some such provision as the following may be suggested, and, if no better solution seems practicable, should be urged:

> The use of force for the collection of a contract debt alleged to be due by the Government of any country to a citizen of any other country is not permissible until after—
>
> 1. The justice and amount of the debt shall have been determined by arbitration, if demanded by the alleged debtor.
>
> 2. The time and manner of payment, and the security, if any, to be given pending payment, shall have been fixed by arbitration, if demanded by the alleged debtor.

5. In the general field of arbitration two lines of advance are clearly indicated. The first is to provide for obligatory arbitration

as broad in scope as now appears to be practicable, and the seconds is to increase the effectiveness of the system so that nations may more readily have recourse to it voluntarily.

You are familiar with the numerous expressions in favor of the settlement of international disputes by arbitration on the part both of the Congress and of the Executive of the United States.

So many separate treaties of arbitration have been made between individual countries that there is little cause to doubt that the time is now ripe for a decided advance in this direction. This condition, which brings the subject of a general treaty for obligatory arbitration into the field of practical discussion, is undoubtedly largely due to the fact that the Powers generally in the First Hague Conference committed themselves to the principle of the pacific settlement of international questions in the admirable convention for voluntary arbitration then adopted.

The Rio Conference of last summer provided for the arbitration of all pecuniary claims among the American States. This convention has been ratified by the President, with the advice and consent of the Senate.

In December, 1904, and January, 1905, my predecessor, Mr. Hay, concluded separate arbitration treaties between the United States and Great Britain, France, Germany, Spain, Portugal, Italy, Switzerland, Austria-Hungary, Sweden and Norway, and Mexico. On the 11th of February, 1905, the Senate advised and consented to the ratification of these treaties, with an amendment which has had the effect of preventing the exchange of ratifications. The amendment, however, did not relate to the scope or character of the arbitration to which the President had agreed and the Senate consented. You will be justified, therefore, in assuming that a general treaty of arbitration in the terms, or substantially in the terms, of the series of treaties which I have mentioned will meet the approval of the Government of the United States. The first article of each of these treaties was as follows:

> Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

To this extent you may go in agreeing to a general treaty of arbitration, and to secure such a treaty you should use your best and most earnest efforts.

Such a general treaty of arbitration necessarily leaves to be determined in each particular case what the questions at issue between the two Governments are, and whether those questions come within the scope of the treaty or within the exceptions, and what shall be the scope of the powers of the arbitrators. The Senate amendment which prevented the ratification of each of these treaties applied only to another article of the treaty which provided for special agreements in regard to these matters and involved only the question who should act for the United States in making such special agreements. To avoid having the same question arise regarding any general treaty

of arbitration which you may sign at The Hague, your signature should be accompanied by an explanation substantially as follows:

In signing the general arbitration treaty the delegates of the United States desire to have it understood that the special agreements provided for in article — of said treaty will be subject to submission to the Senate of the United States.

The method in which arbitration can be made more effective, so that nations may be more ready to have recourse to it voluntarily and to enter into treaties by which they bind themselves to submit to it, is indicated by observation of the weakness of the system now apparent. There can be no doubt that the principal objection to arbitration rests not upon the unwillingness of nations to submit their controversies to impartial arbitration, but upon an apprehension that the arbitrations to which they submit may not be impartial. It has been a very general practice for arbitrators to act, not as judges deciding questions of fact and law upon the record before them under a sense of judicial responsibility, but as negotiators effecting settlements of the questions brought before them in accordance with the traditions and usages and subject to all the considerations and influences which affect diplomatic agents. The two methods are radically different, proceed upon different standards of honorable obligation, and frequently lead to widely differing results. It very frequently happens that a nation which would be very willing to submit its differences to an impartial judicial determination is unwilling to subject them to this kind of diplomatic process. If there could be a tribunal which would pass upon questions between nations with the same impartial and impersonal judgment that the Supreme Court of the United States gives to questions arising between citizens of the different States, or between foreign citizens and the citizens of the United States, there can be no doubt that nations would be much more ready to submit their controversies to its decision than they are now to take the chances of arbitration. It should be your effort to bring about in the Second Conference a development of The Hague Tribunal into a permanent tribunal composed of judges who are judicial officers and nothing else, who are paid adequate salaries, who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility. These judges should be so selected from the different countries that the different systems of law and procedure and the principal languages shall be fairly represented. The court should be made of such dignity, consideration, and rank that the best and ablest jurists will accept appointment to it, and that the whole world will have absolute confidence in its judgments.

The arbitration convention signed at The First Hague Conference contained no authority for the adherence of nonsignatory Powers, but provided:

The conditions on which the Powers who were not represented at the International Peace Conference can adhere to the present convention shall form the subject of a separate agreement among the contracting Powers.

This left all the Central and South American States outside of the treaty. The United States has from time to time endeavored to secure an opportunity for them to adhere, and it has now been arranged that this shall be accomplished as a necessary preliminary *to their taking* part in the Second Conference. The method arranged

is that on the day before the opening of the Conference a protocol shall be signed by the representatives of all the Powers signatory to the treaty substantially as follows:

The representatives at the Second Peace Conference of the States signatories of the Convention of 1899 relative to the peaceful settlement of international disputes, duly authorized to that effect, have agreed that in case the States that were not represented at the First Peace Conference, but have been convoked to the present Conference, should notify the Government of the Netherlands of their adhesion to the above-mentioned convention they shall be forthwith considered as having acceded thereto.

It is understood that substantially all the Central and South American States have notified the Government of the Netherlands of their adherence to the convention, and upon the signing of this protocol their notices will immediately take effect and they will become parties competent to take part in the discussions of the Second Conference looking towards the amendment and extension of the arbitration convention. You will sign the protocol in behalf of the United States pursuant to the full powers already given you.

6. You will maintain the traditional policy of the United States regarding the immunity of private property of belligerents at sea.

On the 28th of April, 1904, the Congress of the United States adopted the following resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled That it is the sense of the Congress of the United States that it is desirable, in the interest of uniformity of action by the maritime states of the world in time of war, that the President endeavor to bring about an understanding among the principal maritime powers with a view of incorporating into the permanent law of civilized nations, the principle of the exemption of all private property at sea, not contraband of war, from capture or destruction by belligerents. Approved April 28, 1904.

This resolution is an expression of the view taken by the United States during its entire history. Such a provision was incorporated in the Treaty of 1775 with Prussia, signed by Benjamin Franklin, Thomas Jefferson, and John Adams, and it was proposed by the United States as an amendment to be added to the privateering clause of the Declaration of Paris in 1856. The refusal of the other Powers to accompany prohibition of privateering by such a provision caused the Government of the United States to refuse its adherence to the declaration.

The Congressional resolution was in response to the recommendation of President Roosevelt's message to Congress in December, 1903, quoting and enforcing a previous message by President McKinley in December, 1898, which said:

The United States Government has for many years advocated this humane and beneficent principle, and is now in a position to recommend it to other Powers without the imputation of selfish motives.

Whatever may be the apparent specific interest of this or any other country at the moment, the principle thus declared is of such permanent and universal importance that no balancing of the chances of probable loss or gain in the immediate future on the part of any nation should be permitted to outweigh the considerations of common benefit to civilization which call for the adoption of such an agreement.

In the First Peace Conference the subject of the immunity of private property at sea was not included in the programme. Consideration of it was urged by the delegates of the United States and was sup-

ported by an able presentation on the part of Mr. Andrew D. White. The representatives of several of the great Powers declared, however, that in the absence of instructions from their Governments they could not vote upon the subject; and, under the circumstances, we must consider that gratifying progress was made when there was included in the final act of the Conference a resolution expressing—

The wish that the proposal which contemplates the declaration of the inviolability of private property in naval warfare may be referred to a subsequent conference for consideration.

The subject has accordingly been included in the present programme and the way is open for its consideration.

It will be appropriate for you to advocate the proposition formulated and presented by the American delegates to the First Conference, as follows:

The private property of all citizens or subjects of the signatory Powers, with the exception of contraband of war, shall be exempt from capture or seizure on the high seas, or elsewhere by the armed vessels or by the military forces of any of the said signatory Powers. But nothing herein contained shall extend exemption from seizure to vessels and their cargoes which may attempt to enter a port blockaded by the naval forces of any of the said Powers.

7. Since the code of rules for the government of military operations on land was adopted by the First Peace Conference there have been occasions for its application under very severe conditions, notably in the South African war and the war between Japan and Russia. Doubtless the Powers involved in those conflicts have had occasion to observe many particulars in which useful additions or improvements might be made. You will consider their suggestions with a view to reducing, so far as is practicable, the evils of war and protecting the rights of neutrals.

As to the framing of a convention relative to the customs of maritime warfare, you are referred to the naval war code promulgated in General Orders 551 of the Navy Department of June 27, 1900, which has met with general commendation by naval authorities throughout the civilized world, and which, in general, expresses the views of the United States, subject to a few specific amendments suggested in the volume of international-law discussions of the Naval War College of the year 1903, pages 91 to 97. The order putting this code into force was revoked by the Navy Department in 1904, not because of any change of views as to the rules which it contained, but because many of those rules, being imposed upon the forces of the United States by the order, would have put our naval forces at a disadvantage as against the forces of other Powers, upon whom the rules were not binding. The whole discussion of these rules contained in the volume to which I have referred is commended to your careful study.

You will urge upon the Peace Conference the formulation of international rules for war at sea and will offer the naval war code of 1900, with the suggested changes and such further changes as may be made necessary by other agreements reached at the Conference, as a tentative formulation of the rules which should be considered.

8. The clause of the programme relating to the rights and duties of neutrals is of very great importance and in itself would furnish matter for useful discussion sufficient to occupy the time and justify the labors of the Conference.

The various subjects which the Conference may be called upon to consider are likely to bring out proposals which should be considered in their relation to each other, as standing in the following order of substantial importance:

(1) Provisions tending to prevent disagreements between nations.

(2) Provisions tending to dispose of disagreements without war.

(3) Provisions tending to preserve the rights and interests of neutrals.

(4) Provisions tending to mitigate the evils of war to belligerents.

The relative importance of these classes of provisions should always be kept in mind. No rules should be adopted for the purpose of mitigating the evils of war to belligerents which will tend strongly to destroy the rights of neutrals, and no rules should be adopted regarding the rights of neutrals which will tend strongly to bring about war. It is of the highest importance that not only the rights but the duties of neutrals shall be most clearly and distinctly defined and understood, not only because the evils which belligerent nations bring upon themselves ought not to be allowed to spread to their peaceful neighbors and inflict unnecessary injury upon the rest of mankind, but because misunderstandings regarding the rights and duties of neutrals constantly tend to involve them in controversy with one or the other belligerent.

For both of these reasons, special consideration should be given to an agreement upon what shall be deemed to constitute contraband of war. There has been a recent tendency to extend widely the list of articles to be treated as contraband; and it is probable that if the belligerents themselves are to determine at the beginning of a war what shall be contraband, this tendency will continue until the list of contraband is made to include a large proportion of all the articles which are the subject of commerce, upon the upon the ground that they will be useful to the enemy. When this result is reached, especially if the doctrine of continuous voyages is applied at the same time, the doctrine that free ships make free goods and the doctrine that blockades in order to be binding must be effective, as well as any rule giving immunity to the property of belligerents at sea, will be deprived of a large part of their effect, and we shall find ourselves going backward instead of forward in the effort to prevent every war from becoming universally disastrous. The exception of contraband of war in the Declaration of Paris will be so expanded as to very largely destroy the effect of the declaration. On the other hand, resistance to this tendency toward the expansion of the list of contraband ought not to be left to the neutrals affected by it at the very moment when war exists, because that is the process by which neutrals become themselves involved in war. You should do all in your power to bring about an agreement upon what is to constitute contraband; and it is very desirable that the list should be limited as narrowly as possible.

With these instructions there will be furnished to you copies of the diplomatic correspondence relating to the Conference, the instructions to the delegates to the First Conference which are in all respects reaffirmed and their report, the international law discussions of the Naval War College of 1903, the report of the American delegates to the Conference of the American Republics at Rio de Janeiro in 1906, and

the report of the American delegates to the Geneva Conference of 1906 for the revision of the Red Cross Convention of 1864.

Following the precedent established by the commission to the First Conference, all your reports and communications to this Government will be made to the Department of State for proper consideration and eventual preservation in the archives. The records of your commission will be kept by your secretary, Mr. Chandler Hale. Should you be in doubt at any time regarding the meaning or effect of these instructions, or should you consider at any time that there is occasion for special instructions, you will communicate freely with the Department of State by telegraph. It is the President's earnest wish that you may contribute materially to the effective work of the Conference and that its deliberations may result in making international justice more certain and international peace more secure.

I am, gentlemen, your obedient servant,

ELIHU ROOT.

INSTRUCTIONS TO THE INTERNATIONAL (PEACE) CONFERENCE AT THE HAGUE, 1899.

Mr. Hay to Hon. Andrew D. White, Hon. Seth Low, Hon. Stanford Newel, Capt. Alfred T. Mahan, U. S. N., Capt. William Crozier, U. S. A., Delegates on the part of the President of the United States.

DEPARTMENT OF STATE,
Washington, April 18, 1899.

GENTLEMEN: You have been appointed by the President to constitute a commission to represent him at an international conference called by His Imperial Majesty the Emperor of Russia to meet at The Hague, at a time to be indicated by the Government of the Netherlands, for the purpose of discussing the most efficacious means of assuring to all peoples the "benefits of a real and durable peace."

Upon your arrival at The Hague you will effect an organization of your commission, whose records will be kept by your secretary, Hon. Frederick W. Holls. All reports and communications will be made through this Department, according to its customary forms, for preservation in the archives.

The programme of topics suggested by the Russian minister of foreign affairs for discussion at the Conference in his circular of December 30, 1898, is as follows:

1. An understanding stipulating the nonaugmentation, for a term to be agreed upon, of the present effective armed land and sea forces, as well as the war budgets pertaining to them; preliminary study of the ways in which even a reduction of the aforesaid effectives and budgets could be realized in the future.

2. Interdiction of the employment in armies and fleets of new firearms of every description and of new explosives, as well as powder more powerful than the kinds used at present, both for guns and cannons.

3. Limitation of the use in field fighting of explosives of a formidable power, such as now in use, and prohibition of the discharge of any kind of projectiles or explosives from balloons or by similar means.

4. Prohibition of the use in naval battles of submarine or diving torpedo boats, or of other engines of destruction of the same nature; agreement not to construct in the future war ships armed with rams.

5. Adaptation to naval war of the stipulation of the Geneva Convention of 1864, on the base of the additional articles of 1868.

6. Neutralization, for the same reason, of boats or launches employed in the rescue of the shipwrecked during or after naval battles.

7. Revision of the declaration concerning the laws and customs of war elaborated in 1874 by the Conference of Brussels, and not yet ratified.

8. Acceptance, in principle, of the use of good offices, mediation, and voluntary arbitration, in cases where they are available, with the purpose of preventing armed conflicts between nations; understanding in relation to their mode of application and establishment of a uniform practice in employing them.

It is understood that all questions concerning the political relations of States and the order of things established by treaties, as in general all the questions which shall not be included directly in the programme adopted by the cabinets, should be absolutely excluded from the deliberations of the Conference.

The first article, relating to the nonaugmentation and future reduction of effective land and sea forces, is, at present, so inapplicable to the United States that it is deemed advisable for the delegates to leave the initiative upon this subject to the representatives of those Powers to which it may properly belong. In comparison with the effective forces, both military and naval, of other nations, those of the United States are at present so far below the normal quota that the question of limitation could not be profitably discussed.

The second, third, and fourth articles, relating to the nonemployment of firearms, explosives, and other destructive agents, the restricted use of existing instruments of destruction, and the prohibition of certain contrivances employed in naval warfare, seem lacking in practicability, and the discussion of these propositions would probably prove provocative of divergence rather than unanimity of views. It is doubtful if wars are to be diminished by rendering them less destructive, for it is the plain lesson of history that the periods of peace have been longer protracted as the cost and destructiveness of war have increased. The expediency of restraining the inventive genius of our people in the direction of devising means of defense is by no means clear, and, considering the temptations to which men and nations may be exposed in a time of conflict, it is doubtful if an international agreement to this end would prove effective. The dissent of a single powerful nation might render it altogether nugatory. The delegates are, therefore, enjoined not to give the weight of their influence to the promotion of projects the realization of which is so uncertain.

The fifth, sixth, and seventh articles, aiming in the interest of humanity to succor those who by the chance of battle have been rendered helpless, thus losing the character of effective combatants, or to alleviate their sufferings, or to insure the safety of those whose mission is purely one of peace and beneficence, may well awake the cordial interest of the delegates, and any practicable propositions based upon them should receive their earnest support.

The eighth article, which proposes the wider extension of good offices, mediation, and arbitration, seems likely to open the most fruitful field for discussion and future action. "The prevention of armed conflicts by pacific means," to use the words of Count Mouravieff's circular of December 30, is a purpose well worthy of a great international convention, and its realization in an age of general enlightment should not be impossible. The duty of sovereign States to promote international justice by all wise and effective means is only secondary to the fundamental necessity of pre-

serving their own existence. Next in importance to their independence is the great fact of their interdependence. Nothing can secure for human government and for the authority of law which it represents so deep a respect and so firm a loyalty as the spectacle of sovereign and independent States, whose duty it is to prescribe the rules of justice and impose penalties upon the lawless, bowing with reverence before the august supremacy of those principles of right which give to law its eternal foundation.

The proposed Conference promises to offer an apportunity thus far unequaled in the history of the world for initiating a series of negotiations that may lead to important practical results. The long-continued and widespread interest among the people of the United States in the establishment of an international court, as evidenced in the historical résumé attached to these instructions as Annex A, gives assurance that the proposal of a definite plan of procedure by this Government for the accomplishment of this end would express the desires and aspirations of this nation. The delegates are, therefore, enjoined to propose, at an opportune moment, the plan for an international tribunal, hereunto attached as Annex B, and to use their influence in the Conference in the most effective manner possible to procure the adoption of its substance or of resolutions directed to the same purpose. It is believed that the disposition and aims of the United States in relation to the other sovereign Powers could not be expressed more truly or opportunely than by an effort of the delegates of this Government to concentrate the attention of the world upon a definite plan for the promotion of international justice.

Since the Conference has its chief reason of existence in the heavy burdens and cruel waste of war, which nowhere affect innocent private persons more severely or unjustly than in the damage done to peaceable trade and commerce, especially at sea, the question of exempting private property from destruction or capture on the high seas would seem to be a timely one for consideration.

As the United States has for many years advocated the exemption of all private property not contraband of war from hostile treatment, you are authorized to propose to the Conference the principle of extending to strictly private property at sea the immunity from destruction or capture by belligerent Powers which such property already enjoys on land as worthy of being incorporated in the permanent law of civilized nations.

I am, etc., JOHN HAY.

ANNEX A.

HISTORICAL RÉSUMÉ.

From time to time in the history of the United States, propositions have been made for the establishment of a system of peaceable adjustment of differences arising between nations. As early as February, 1832, the senate of Massachusetts adopted, by a vote of 19 to 5, a resolution expressing the opinion that "some mode should be established for the amicable and final adjustment of all international disputes instead of resorting to war."

A similar resolution was unanimously passed by the house of representatives of the same State in 1837, and by the senate by a vote *of 35 to 5.*

A little prior to 1840 there was much popular agitation regarding the convocation of a congress of nations for the purpose of establishing an international tribunal. This idea was commended by resolutions adopted by the legislature of Massachusetts in 1844, and by the legislature of Vermont in 1852.

In February, 1851, Mr. Foote, from the Committee on Foreign Relations, reported to the Senate of the United States a resolution that "in the judgment of this body it would be proper and desirable for the Government of these United States whenever practicable to secure in its treaties with other nations a provision for referring to the decision of umpires all future misunderstandings that can not be satisfactorily adjusted by amicable negotiation in the first instance, before a resort to hostilities shall be had."

Two years later Senator Underwood, from the same committee, reported a resolution of advice to the President suggesting a stipulation in all treaties hereafter entered into with other nations referring the adjustment of any misunderstanding or controversy to the decision of disinterested and impartial arbitrators to be mutually chosen.

May 31, 1872, Mr. Sumner introduced into the Senate a resolution in which, after reviewing the historical development of municipal law and the gradual suppression of private war, and citing the progressive action of the Congress of Paris with regard to neutrals, he proposed the establishment of a tribunal to be clothed with such authority as to make it a "complete substitute for war," declaring a refusal to abide by its judgment hostile to civilization, to the end that "war may cease to be regarded as a proper form of trial between nations."

In 1874 a resolution favoring general arbitration was passed by the House of Representatives.

April 1, 1883, a confidential inquiry was addressed to Mr. Frelinghuysen, Secretary of State, by Colonel Frey, then Swiss minister to the United States, regarding the possibility of concluding a general treaty of arbitration between the two countries. Mr. Frelinghuysen, citing the general policy of this country in past years, expressed his disposition to consider the proposition with favor. Septemper 5, 1883, Colonel Frey submitted a draft of a treaty, the reception of which was acknowledged by Mr. Frelinghuysen on the 26th of the same month. This draft, adopted by the Swiss Federal Council July 24, 1883, presented a short plan of arbitration. These negotiations were referred to in the President's Annual Message for 1883, but were not concluded.

In 1888, a communication having been made to the President and Congress of the United States by two hundred and thirty-five members of the British Parliament, urging the conclusion of a treaty of arbitration between the United States and Great Britain, and reinforced by petitions and memorials from multitudes of individuals and associations from Maine to California, great enthusiasm was exhibited in its reception by eminent citizens of New York. As a result of this movement on June 13, 1888, Mr. Sherman, from the Committee on Foreign Relations, reported to the Senate a joint Resolution requesting the President "to invite, from time to time, as fit occasions may arise, negotiations with any government with which the United States has or may have diplomatic relations, to

the end that the differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration, and be peaceably adjusted by such means."

November 29, 1881, Mr. Blaine, Secretary of State, invited the Governments of the American Nations to participate in a Congress to be held in the city of Washington, November 24, 1882, "for the purpose of considering and discussing the methods of preventing war between the nations of America." For special reasons the enterprise was temporarily abandoned, but was afterwards revived and enlarged in Congress, and an act was passed authorizing the calling of the International American Conference, which assembled in Washington in the autumn of 1889. On April 18, 1890, referring to this plan of arbitration, Mr. Blaine said:

If, in this closing hour, the Conference had but one deed to celebrate, we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace, and to the prosperity which has peace for its foundation. We hold up this new *Magna Charta*, which abolishes war and substitutes arbitration between the American Republics, as the first and great fruit of the "International American Conference."

The Senate of the United States on February 14, 1890, and the House of Representatives on April 3, 1890, adopted a concurrent resolution in the language reported by Mr. Sherman to the Senate in June, 1888.

July 8, 1895, the French Chamber of Deputies unanimously resolved:

The Chamber invites the Government to negotiate as soon as possible a permanent treaty of arbitration between the French Republic and the Republic of the United States of America.

July 16, 1893, the British House of Commons adopted the following resolution:

Resolved, That this House has learnt with satisfaction that both Houses of the United States Congress have, by resolution, requested the President to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States have or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration and peaceably adjusted by such means; and that this House, cordially sympathizing with the purpose in view, expresses the hope that Her Majesty's Government will lend their ready cooperation to the Government of the United States upon the basis of the foregoing resolution.

December 4, 1893, President Cleveland referred to the foregoing resolution of the British House of Commons as follows:

It affords me signal pleasure to lay this parliamentary resolution before the Congress and to express my sincere gratification that the sentiment of two great and kindred nations is thus authoritatively manifested in favor of the rational and peaceable settlement of international quarrels by honorable resort to arbitration.

These resolutions led to the exchange of communications regarding the conclusion of a permanent treaty of arbitration, suspended from the spring of 1895 to March 5, 1898, when negotiations were resumed which resulted in the signature of a treaty January 11, 1897, between the United States and Great Britain.

In his inaugural address, March 4, 1897, President McKinley said:

Arbitration is the true method of settlement of international as well as local or individual differences. It was recognized as the best means of adjustment of differences between employers and employees by the Forty ninth Congress in 1886, and its application was extended to our diplomatic relations by the unanimous concurrence

of the Senate and House of the Fifty-first Congress in 1890. The latter resolution was accepted as the basis of negotiations with us by the British House of Commons in 1893, and upon our invitation a treaty of arbitration between the United States and Great Britain was signed at Washington and transmitted to the Senate for ratification in January last.

Since this treaty is clearly the result of our own initiative, since it has been recognized as the leading feature of our foreign policy throughout our entire national history—the adjustment of difficulties by judicial methods rather than force of arms—and since it presents to the world the glorious example of reason and peace, not passion and war, controlling the relations between two of the greatest nations of the world, an example certain to be followed by others, I respectfully urge the early action of the Senate thereon, not merely as a matter of policy, but as a duty to mankind. The importance and moral influence of the ratification of such a treaty can hardly be overestimated in the cause of advancing civilization. It may well engage the best thought of the statesmen and people of every country, and I can not but consider it fortunate that it was reserved to the United States to have the leadership in so grand a work.

The Senate of the United States declined to concur in the ratification of the Treaty of Arbitration with Great Gritain, but for reasons which might not affect a general treaty directed toward a similar end.

The publication by this Government of the exhaustive "History and Digest of the International Arbitrations to which the United States has been a Party," by the Hon. John Bassett Moore, late Assistant Secretary of State, a work extending through six volumes, marks a new epoch in the history of arbitration. It places beyond controversy the applicability of judicial methods to a large variety of international disagreements which have been successfully adjudicated by individual arbitrators or temporary boards of arbitration chosen by the litigants for each case. It also furnishes an exceedingly valuable body of rules of organization and procedure for the guidance of future tribunals of a similar nature. But, perhaps, its highest significance is the demonstration of the superiority of a permanent tribunal over merely special and temporary boards of arbitration, with respect to economy of time and money as well as uniformity of method and procedure.

A history of the various plans for the realization of international justice shows the gradual evolution of clearer and less objectionable conceptions upon this subject. Those of Bluntschli, Lorimer, David Dudley Field, and Leone Levi have been long before the public, each containing useful suggestions, but impracticable as a whole. Certain rules for the regulation of the procedure of international tribunals of arbitration were discussed by the Institute of International Law at its sessions at Geneva in 1874, and at The Hague in 1875, and provisional rules were finally approved. Another set of rules was proposed by a select committee of lawyers at the Universal Peace Congress, held in Chicago in 1893. Resolutions of a somewhat elaborate nature were adopted by the Interparliamentary Conference, composed of British and French members of Parliament, at Brussels in 1895. In April, 1896, the Bar Association of the State of New York, at a special meeting held at Albany, adopted a plan for the establishment of a permanent international tribunal. The almost continuous movement of thought in this direction since 1832 has been interrupted only by the late Spanish-American war.

A careful review of all the plans for an international tribunal that have thus far been proposed makes it evident that they have failed from two causes: (1) Too great elaboration and complication, involving too many debatable questions; and (2) the absence of an

opportune occasion for proposing them to an authoritative international body.

The plan that is to prove successful, if a sufficient number of sovereign States be disposed to adopt any plan whatsoever for an international tribunal, must combine an adequate grasp of the conditions with an extreme simplicity, leaving much to the cooperation of others and the development of the future.

The introduction of a brief resolution at an opportune moment in the proposed Peace Conference would at least place the United States on record as the friend and promoter of peace. The resolution hereto appended is intended to embody in the briefest and simplest manner the most useful suggestions of all the plans proposed.

ANNEX B

PLAN FOR AN INTERNATIONAL TRIBUNAL.

Resolved, That in order to aid in the prevention of armed conflicts by pacific means, the representatives of the Sovereign Powers assembled together in this Conference be, and hereby are, requested to propose to their respective Governments a series of negotiations for the adoption of a general treaty having for its object the following plan, with such modifications as may be essential to secure the adhesion of at least nine Sovereign Powers.

1. The Tribunal shall be composed of judges chosen on account of their personal integrity and learning in international law by a majority of the members of the highest court now existing in each of the adhering States, one from each sovereign State participating in the treaty, and shall hold office until their successors are appointed by the same body.

2. The Tribunal shall meet for organization at a time and place to be agreed upon by the several Governments, but not later than six months after the general treaty shall be ratified by nine Powers, and shall organize itself by the appointment of a permanent clerk and such other officers as may be found necessary, but without conferring any distinction upon its own members. The Tribunal shall be empowered to fix its place of sessions and to change the same from time to time as the interests of justice or the convenience of the litigants may seem to require, and fix its own rules of procedure.

3. The contracting nations will mutually agree to submit to the International Tribunal all questions of disagreement between them, excepting such as may relate to or involve their political independence or territorial integrity. Questions of disagreement, with the aforesaid exceptions, arising between an adherent State and a non-adhering State, or between two sovereign States not adherent to the treaty, may, with the consent of both parties in dispute, be submitted to the International Tribunal for adjudication, upon the condition expressed in article 6.

4. The Tribunal shall be of a permanent character and shall be always open for the filing of cases and counter cases, either by the contracting nations or by others that may choose to submit them, and all cases and counter cases, with the testimony and arguments

by which they are to be supported or answered, are to be in writing. All cases, counter cases, evidence, arguments, and opinions expressing judgment are to be accessible, after a decision is rendered, to all who desire to pay the necessary charges for transcription.

5. A bench of judges for each particular case shall consist of not less than three nor more than seven, as may be deemed expedient, appointed by the unanimous consent of the Tribunal, and not to include a member who is either a native, subject, or citizen of the State whose interests are in litigation in that case.

6. The general expenses of the Tribunal are to be divided equally between the adherent Powers, but those arising from each particular case shall be provided for as may be directed by the Tribunal. The presentation of a case wherein one or both of the parties may be a nonadherent State shall be admitted only upon condition of a mutual agreement that the State against which judgment may be found shall pay, in addition to the judgment, a sum to be fixed by the Tribunal for the expenses of the adjudication.

7. Every litigant before the International Tribunal shall have the right to make an appeal for reexamination of a case within three months after notification of the decision, upon presentation of evidence that the judgment contains a substantial error of fact or law.

8. This treaty shall become operative when nine sovereign States, whereof at least six shall have taken part in the Conference of The Hague, shall have ratified its provisions.

REPORT OF THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907.

Hon. ELIHU ROOT,
Secretary of State.

SIR: Pursuant to a request of the Interparliamentary Union, held at St. Louis in 1904, that a future peace conference be held and that the President of the United States invite all nations to send representatives to such a conference, the late Secretary of State, at the direction of the President, instructed, on October 21, 1904, the representatives of the United States accredited to each of the signatories to the acts of the The Hague Conference of 1899 to present overtures for a second conference to the ministers for foreign affairs of the respective countries.

The replies received to this circular instruction of October 21, 1904, indicated that the proposition for the calling of a second conference met with general favor. At a later period it was intimated by Russia that the initiator of the First Conference was, owing to the restoration of peace in the Orient, disposed to undertake the calling of a new conference to continue as well as to supplement the work of the first. The offer of the Czar to take steps requisite to convene a second international peace conference was gladly welcomed by the President, and the Final Act of the Conference only recites in its preamble the invitation of the President.

The Russian Government thus assumed the calling of the Conference, and on April 12, 1906, submitted the following programme, which was acceptable to the Powers generally and which served as the basis of the work of the Conference:

1. Improvements to be made in the provisions of the convention relative to the peaceful settlement of international disputes as regards the Court of Arbitration and the international commissions of inquiry.

2. Additions to be made to the provisions of the convention of 1899 relative to the laws and customs of war on land—among others, those concerning the opening of hostilities, the rights of neutrals on land, etc. Declaration of 1899. One of these having expired, question of its being revived.

3. Framing of a conveniton relative to the laws and customs of maritime warfare, concerning—

The special operations of maritime warfare, such as the bombardment of ports, cities, and villages by a naval force; the laying of torpedoes, etc.

The transformation of merchant vessels into war ships.

The private property of belligerents at sea.

The length of time to be granted to merchant ships for their departure from ports of neutrals or of the enemy after the opening of hostilities.

The rights and duties of neutrals at sea, among others the questions of contraband, the rules applicable to belligerent vessels in neutral ports; destruction, in cases of *vis major*, of neutral merchant vessels captured as prizes.

In the said convention to be drafted there would be introduced the provisions relative to war on land that would be also applicable to maritime warfare.

4. Additions to be made to the convention of 1899 for the adaptation to maritime *warfare of the principles* of the Geneva Convention of 1864.

The United States, however, reserved the right to bring to discussion two matters of great importance not included in the programme, namely, the reduction or limitation of armaments and restrictions or limitations upon the use of force for the collection of ordinary public debts arising out of contracts.

It was finally decided that the Conference should meet at The Hague on the 15th day of June, 1907, and thus the Conference, proposed by the President of the United States, and convoked by Her Majesty the Queen of The Netherlands upon the invitation of the Emperor of All the Russias, assumed definite shape and form.

It will be recalled that the First Peace Conference, although international, was not universal, for only a fraction of the Powers recognizing and applying international law in their mutual relations were invited to The Hague. The fact that the uninvited might adhere to the conventions was foreseen by the Conference itself, and the conventions concerning the laws and customs of land warfare and the adaptation to maritime warfare of the principles of the Geneva Convention of the 22d of August, 1864, provided that nonsignatory Powers by adhering became admitted to the privileges as well as bound by the liabilities of the various conventions. The convention for the peaceful adjustment of international difficulties (art. 60) suggested eventual adherence of such countries, but made this conditioned upon an understanding to be reached by the contracting Powers.

In the circulars of October 21 and December 16, 1904, it was suggested as desirable to consider and adopt a procedure by which States nonsignatory to the original acts of The Hague Conference may become adhering parties. This suggestion was taken note of by the Russian Government and invitations were issued to forty-seven countries, in response to which the representatives of forty-four nations assembled at The Hague and took part in the Conference. No opposition was made to the admission of the nonsignatory States to the benefits of the convention of 1899 for the peaceful adjustment of international difficulties, and on the 14th day of June, 1907, the signatories of the First Conference formally consented under their hands and seals to the adhesion of the nonsignatory States invited to the Second Conference.

The delegation of the United States to the Conference was composed of the following members:

Commissioners plenipotentiary with the rank of ambassador extraordinary:

Joseph H. Choate, of New York.
Horace Porter, of New York.
Uriah M. Rose, of Arkansas.

Commissioner plenipotentiary:

David Jayne Hill, of New York, envoy extraordinary and minister plenipotentiary of the United States to the Netherlands.

Commissioners Plenipotentiary with rank of minister plenipotentiary:

Brig. Gen. George B. Davis, Judge-Advocate-General, U. S. Army.
Rear-Admiral Charles S. Sperry, U. S. Navy.
William I. Buchanan, of New York.

Technical delegate and expert in international law:
James Brown Scott, of California.
Technical delegate and expert attaché to the Commission:
Charles Henry Butler, of New York.
Secretary to the Commission:
Chandler Hale, of Maine.
Assistant secretaries to the Commission:
A. Bailly-Blanchard, of Louisiana.
William M. Malloy, of Illinois.

The Dutch Government set aside for the use of the Conference, the Binnenhof, the seat of the States-General, and on the 15th day of June, 1907, at 3 o'clock in the afternoon, the Conference was opened by his excellency the dutch minister for foreign affairs in the presence of delegates representing forty-four nations. In the course of his remarks his excellency offered "a tribute of gratitude to the eminent statesman who controls the destinies of the United States of America. President Roosevelt has greatly contributed to harvest the grain sown by the August Initiator of the solemn international conferences assembled to discuss and to render more exact the rules of international law which, as the States are the first to recognize, should control their relations."

At the conclusion of the address of welcome his excellency suggested as president of the Conference His Excellency M. Nelidow, first delegate of Russia, and, with the unanimous consent of the assembly, M. Nelidow accepted the presidency and delivered an address, partly personal, in which, in addition to thanking the Conference for the honor of the presidency, he called attention to the work of the First Conference and outlined in a general way the underlying purpose of the Second Conference and the hopes of the delegates assembled. At the termination of his address he proposed the personnel of the secretary-general's office.

At the next meeting of the Conference, on the 19th day of June, the president proposed that the Conference follow the procedure of the First Conference, adapting it, however, to the new conditions; for, as the Conference was so large, it seemed advisable to draw up a series of rules and regulations to facilitate the conduct of business. The president thereupon proposed the following twelve articles, which were unanimously adopted, with the exception of the third paragraph of article 8 which was suppressed:

ARTICLE 1. The Second Peace Conference is composed of all the plenipotentiaries and technical delegates of the Powers which have signed or adhered to the conventions and acts signed at the First Peace Conference of 1899.

ART. 2. After organizing its bureau, the Conference shall appoint commissions to study the questions comprised within its programme.

The plenipotentiaries of the Powers are free to register on the lists of these commissions according to their own convenience and to appoint technical delegates to take part therein.

ART. 3. The Conference shall appoint the president and vice-presidents of each commission. The commissions shall appoint their secretaries and their reporter.

ART. 4. Each commission shall have the power to divide itself into subcommissions which shall organize their own bureau.

ART. 5. An editing committee for the purpose of coordinating the acts adopted by the Conference and preparing them in their final form shall also be appointed by the Conference at the beginning of its labors.

ART. 6. The members of the delegations are all authorized to take part in the deliberations at the plenary sessions of the Conference as well as in the commissions of

which they form part. The members of one and the same delegation may mutually replace one another.

ART. 7. The members of the Conference attending the meetings of the commissions of which they are not members shall not be entitled to take part in the deliberations without being specially authorized for this purpose by the presidents of the commissions.

ART. 8. When a vote is taken each delegation shall have only one vote.

The vote shall be taken by roll call, in the alphabetical order of the Powers represented.

[The delegation of one Power may have itself represented by the delegation of another Power.]

ART. 9. Every proposed resolution or desire to be discussed by the Conference must, as a general rule, be delivered in writing to the president, and be printed and distributed before being taken up for discussion.

ART. 10. The public may be admitted to the plenary sessions of the Conference. Tickets shall be distributed for this purpose by the Secretary-General with the authorization of the president.

The bureau may at any time decide that certain sessions shall not be public.

ART. 11. The minutes of the plenary sessions of the Conference and of the commissions shall give a succinct résumé of the deliberations.

A proof copy of them shall be opportunely delivered to the members of the Conference and they shall not be read at the beginning of the sessions.

Each delegate shall have a right to request the insertion in full of his official declarations according to the text delivered by him to the secretary, and to make observations regarding the minutes.

The reports of the commissions and subcommissions shall be printed and distributed before being taken up for discussion.

ART. 12. The French language is recognized as the official language of the deliberations and of the acts of the Conference.

The Secretary-General shall, with the consent of the speaker himself, see that speeches delivered in any other language are summarized orally in French.

The president stated that the programme for the work of the Conference was so elaborate that a division of the Conference into four commissions would be advisable; that in so doing the precedent of 1899 would be followed, for the First Conference apportioned the subjects enumerated in the programme among three commissions. The following dispositions were thereupon proposed and agreed to:

FIRST COMMISSION.

Arbitration.
International commissions of inquiry and questions connected therewith.

SECOND COMMISSION.

Improvements in the system of the laws and customs of land warfare.
Opening of hostilities.
Declarations of 1899 relating thereto.
Rights and obligations of neutrals on land.

THIRD COMMISSION.

Bombardment of ports, cities, and villages by a naval force.
Laying of torpedoes, etc.
The rules to which the vessels of belligerents in neutral ports would be subjected.
Additions to be made to the convention of 1899 in order to adapt to maritime warfare the principles of the Geneva Convention of 1864, revised in 1906.

FOURTH COMMISSION.

Transformation of merchant vessels into war vessels.
Private property at sea.
Delay allowed for the departure of enemy merchant vessels in enemy ports.
Contraband of war. Blockades.
Destruction of neutral prizes by *force majeure*.
Provisions regarding land warfare which would also be applicable to naval warfare.

The president thereupon proposed as presidents or chairmen of the various committees the following delegates:

First Commission: M. Léon Bourgeois.

Second Commission: M. Beernaert; assistant president, M. T. M. C. Asser.

Third Commission: Count Tornielli.

Fourth Commission: M. de Martens.

At the same time the president designated as honorary presidents of the third and second commissions, Messrs. Joseph H. Choate and Horace Porter, and as a member of the correspondence committee Hon. Uriah M. Rose. The president recommended that the deliberations be kept secret, or, at least, that they be not communicated by members to the press. The recommendation was unanimously adopted but was not universally adhered to by the delegates.

The first, second, and third commissions were subsequently divided into subcommissions in order to reduce the numbers and to facilitate the work, and at various times committees of examination were appointed by each of the commissions in order still further to reduce membership and to present in acceptable form projects accepted in principle but not in detail by the various commissions. Finally, in order to correct the language and to assign the various projects already approved to their proper place in the Final Act, a large editing committee (*comité de rédaction*) was appointed at a meeting of the Conference and a subcommittee was appointed, consisting of eight members, to do the work of the large committee and report to it. It may be said that the American delegation was represented on almost all of these various committees and subcommittees.

The actual work of the Conference was, therefore, done in commission and committee. The results, so far as the several commissions desired, were reported to the Conference sitting in plenary session for approval, and, after approval, submitted to the small subediting committee for final revision which, however, affected form, not substance. The results thus reached were included in the Final Act and signed by the plenipotentiaries on the 18th day of October, 1907, upon which date the Conference adjourned.

The positive results of the Conference might be set forth, with perhaps equal propriety, in either one of two ways: First, by discussing the work of each commission and the results accomplished by each; or secondly, by enumerating and describing the results in the order in which they appear, arranged by the Conference itself, in the Final Act. The first method would have the advantage of showing the work of each commission as a whole from the presentation of the various projects until they took final shape in the commission and were approved by the Conference in plenary session. As, however, important projects were considered by the commission, but were not voted upon by the Conference, or, if voted in a form so modified as to appear almost in the nature of original propositions, and inasmuch as the various conventions and measures adopted are arranged in the Final Act without specific reference to the commissions, it seems advisable to follow the order of the Final Act, so that each measure may occupy the place in the report which was assigned to it by the Conference itself. This arrangement will bring into prominence the result, rather than the means by which the result was reached, and will prevent in no slight measure repetition and duplication.

Following then the order of the Final Act, the various conventions, declarations, resolutions, and recommendations are prefaced by an apt paragraph setting forth the spirit which animated the Conference:

In a series of reunions, held from June 15th to October 18th, 1907, in which the delegates aforesaid have been constantly animated by the desire to realize in the largest measure possible the generous views of the August Initiator of the Conference and the intentions of their Governments, the Conference adopted, to be submitted to the signatures of the plenipotentiaries, the text of the conventions and of the declaration hereinafter enumerated and annexed to the present act.

The Final Act then enumerates fourteen subjects, thirteen of which are conventions and one is a declaration. Of each of these in turn.

I.—CONVENTION FOR THE PEACEFUL ADJUSTMENT OF INTERNATIONAL DIFFERENCES.

This convention is, both in conception and execution, the work of the First Peace Conference, of 1899, but the eight years which have elapsed since its adoption suggested many improvements and modifications and not a few additions. The extent of the changes will be evident from the mere statement that while the convention of 1899 contained sixty-one articles, the revision of 1907 contains ninety-seven articles. But these figures throw no light upon the nature and importance of the changes. The structure of 1899, however, practically remains intact, the chief addition being the provision for summary procedure proposed by the French delegation and accepted by the Conference. (Title IV, Chapter IV, arts. 86–90.) All important changes which tended either to enlarge the scope of the convention or to facilitate its application, thereby rendering it more useful, will be discussed in detail in the order of the convention.

Articles 2 to 8 of Title II of the revised convention deal with good offices and mediation, and in this title there is only one change of importance, namely, the insertion of the word "desirable" in article 3, so that the extension of good offices by Powers strangers to the conflict is considered not merely useful, as in the convention of 1899, but desirable, as revised by the Conference of 1907. The change is perhaps slight, but the Powers might well consider a thing useful and yet consider it undesirable. It may well be that the word "desirable" is a step toward moral duty and that in time it may give rise to legal obligation. The same may be said of the insertion of the word "desirable" in article 9, making the recourse to the international commission of inquiry desirable as well as useful. Both additions were proposed by the American delegation and accepted unanimously by the Conference. In this connection it may be advisable to note that a like change has been made upon the proposal of Austria-Hungary in the revision of article 16 of the original convention, so that the arbitration of judicial questions and questions of interpretation and application of international conventions is declared to be not only efficacious and equitable but desirable. (Art. 38.)

Title III in both the original and revised conventions deals with international commissions of inquiry; but while the convention of 1899 contained but six articles (9–14, inclusive), the revision contains twenty-eight. A little reflection shows the reason for the great care

and consideration bestowed upon the commission of inquiry by the recent Conference. In 1899 an institution was created which was hoped would be serviceable. In 1907 the creation was revised and amplified in the light of practical experience, for the institution, theoretically commendable, had justified its existence at a very critical moment, namely, by the peaceful settlement of the Dogger Bank incident (1904). The provisions of 1899 were meager and insufficient to meet the needs of a practical inquiry. In 1907 the procedure actually adopted by the commission of inquiry was presented to the Conference, studied, considered, and made the basis of the present rules and regulations. The nature of the commission of inquiry is, however, unchanged. It was and is an international commission charged with the duty of ascertaining the facts in an international dispute, and its duty is performed when the facts in controversy are found. It does not render a judgment, nor does it apply to the facts found a principle of law, for it is not a court. (Art. 35.)

The seat of the commission is The Hague, but the parties may provide in the agreement of submission that the commission meet elsewhere (art. 11), or the commission may, after its formation and during its session at The Hague, transport itself, with the consent of the parties, to such place or places as may seem appropriate to ascertain the facts in controversy. The parties litigant not only bind themselves to furnish to the commission of inquiry, in the largest measure possible, the means and facilities necessary for the establishment of the facts, but the contracting Powers agree to furnish information in accordance with their municipal legislation unless such information would injure their sovereignty or security.

As previously said, the First Conference created the commission of inquiry, but left it to the parties to the controversy to fix the procedure, specifying only that upon the inquiry both sides be heard. If the procedure were not established in advance by the litigating Powers, it was then to be devised by the commission. (Art. 10.) The disadvantages of this provision are apparent. The parties, inflamed by passion or ill at ease, were, upon the spur of the moment, to devise an elaborate code of procedure, a task which might well be as difficult as to ascertain the facts in dispute. In the next place, if they did not do so, the commission was to fix the procedure. That this task might well be intrusted to the commission is proved by the fact that the commission of 1904 did in fact devise a satisfactory code. But the procedure thus framed could not be known to the litigating countries in advance, and the agents and counsel were thus deprived of the opportunity of familiarizing themselves with it before entering upon the case.

The revision of 1907, therefore, aims to obviate this difficulty by establishing a careful code of procedure based upon the experience of the commission of 1904. It is practical in its nature, for it is based upon actual practice. It provides in advance the procedure of the commission, thus relieving the parties from this serious task and leaving the commission free to begin its labors without the necessity of drawing up an elaborate system of rules and regulations for the conduct of business before it. The procedure, however, is not obligatory, for the parties may, if they choose, specify in the submission the procedure to be followed (art. 10), but the Conference *recommended* a code of procedure which was to be applied if the

parties did not adopt other rules (art. 17). The revision of the title devoted to international commissions of inquiry received the unanimous approval of the Conference.

The selection of commissioners is, and must always be, a matter of delicacy and difficulty. Facts as seen by one person differ from those as seen by another, and national interest tends unconsciously to warp the judgment of one whose country is involved in the controversy. But the value of the findings of fact depends upon their accuracy. If possible, they should be found by a tribunal from which nationals are excluded. The world does not seem to be ready for this ideal solution, but the Conference made a serious step toward it by associating strangers to the controversy with the commissioners. Article 12 of the revised convention for the peaceful adjustment of international differences provides that the commissioners of inquiry, in the absence of a special agreement to the contrary, shall be chosen in accordance with articles 45 and 57 of the revised convention. These articles read as follows:

ART. 45. When the Contracting Powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the arbitrators called upon to form the competent Tribunal to decide this difference must be chosen from the general list of members of the Court.

Failing the agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:

Each party appoints two arbitrators, of whom only one shall be its citizen or subject, or chosen from among those who have been designated by it as members of the Permanent Court. These arbitrators together choose an umpire.

If the votes are equal, the choice of the umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the umpire is made in concert by the Powers thus selected.

If these two Powers have been unable to agree within a period of two months, each of them presents two candidates taken from the list of the members of the Permanent Court, outside of the members designated by the parties and not being the citizens or subjects of either of them. It shall be determined by lot which of the candidates thus presented shall be the umpire.

ART. 57. The umpire is by right President of the Tribunal.

When the Tribunal does not include an umpire, it appoints its own President.

A consideration of article 45 discloses that at least one of the commissioners or arbitrators shall be a stranger to the controversy. Article 32 of the convention of 1899 left both commissioners or arbitrators to the free choice of the selecting Power. In the next place, it will be noted that the revised convention endeavors to secure the composition of the commission or court by providing ample machinery for the selection of the umpire. In the convention of 1899, in case of an equality of votes, the selection of the umpire was confided to a third Power designated by the common accord of the parties to the controversy. If, however, the parties failed to agree upon the third Power in question, each litigant chose a neutral Power, and these neutral Powers selected the umpire. It might well happen, however, that the agents would be as far from agreement as the principals. The revision therefore provided that in case of disagreement each litigant Power should select two members from the list of the Permanent Court, who should neither be citizens nor owe their appointment to a designating Power; that thereupon the umpire should be chosen by lot from the members of the Court so designated.

It will therefore be seen that the commission or court will consist of a body of five, at least two of whose members must be strangers

to the controversy. The umpire selected by their common accord may be indifferent. If the commissioners or arbitrators fail to agree and make use of the machinery provided, it follows that the umpire selected is a stranger to the controversy, and of the commission or court consisting of five competent persons a majority, that is to say, three, would be persons having no national interest or bias in the controversy. It would seem, therefore, that the revised convention offers a guarantee for the finding of the facts as impartially as can be the case when national representatives are members of a small commission or court. As these provisions apply to the selection of arbiters for the constitution of the court at The Hague, it is not necessary to refer to them again in detail.

Article 48 of the revision of the convention of 1899 reads as follows:

The Signatory Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the conflicting parties of the provisions of the present convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

To these two paragraphs was added the following provision:

In case of a controversy between two Powers, one of them may always address to the International Bureau a note containing its declaration that it is willing to submit the difference to arbitration.

The Bureau shall immediately make the declaration known to the other Power.

The American delegation of 1899 made the following reserve regarding this article, and the American delegation of 1907 repeated the reserve in the exact language of 1899:

Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not entering upon, interfering with, or entangling itself in the political questions or internal administration of any foreign state, nor shall anything contained in the said convention be so construed as to require the relinquishment, by the United States of America, of its traditional attitude toward purely American questions.

The changes regarding the Permanent Court of Arbitration, as in the case of the commission of inquiry, relate chiefly to procedure. In this, as in the previous case, the amendments were the result of experience gained in the actual trial of cases.

In the first place, article 52, a revision of article 31, provides that the agreement to arbitrate (the *compromis*) shall specify in detail the period for the appointment of the arbitrators, the form, order, and periods within which the various documents necessary to the arbitration shall be communicated (art. 63), the amount of money which each party shall deposit in advance to cover expenses. In addition, the agreement to arbitrate shall also, if there is occasion, determine the manner of appointment of the arbitrators, all special powers which the Tribunal may have, its seat, the language which it will use and those whose use will be authorized before it, and, in general, all the conditions which the parties have agreed upon.

It is often difficult to formulate the question to be submitted to the court, and it may well be that the parties litigant, although willing to arbitrate, may not agree upon the form of submission. In order, therefore, to aid the parties, not to coerce them, the revised convention provides a method by which the Permanent Court is competent to draw up the agreement to arbitrate if the parties agree to

leave it to this court. It may happen that one party is willing and the other is not. The convention therefore provided that in such a case the court might, upon the request of one of the parties, formulate the *compromis*. The exact language of the article follows:

After an agreement through diplomatic channels has been attempted in vain it is likewise competent, even if the request is made by only one of the parties, in case—

(1) Of a difference comprised within a general arbitration treaty concluded or renewed after this convention goes into force, providing an agreement to arbitrate for each difference, and neither explicitly nor implicitly barring the competency of the Court to draw up such agreement to arbitrate. However, recourse to the Court shall not be had if the other party declares that the difference does not in its opinion belong to the category of differences to be submitted to compulsory arbitration—unless the arbitration treaty confers upon the Arbitral Tribunal the power to decide this preliminary question.

(2) Of a difference arising from contractual debts claimed by one Power of another Power as being due to its citizens or subjects, and for the solution of which the offer of arbitration has been accepted. This provision is not applicable if the acceptance has been made contingent on the condition that the agreement to arbitrate shall be drawn up in another manner.

If the other party consents, and the moral pressure will be great, the special agreement may be reached in this manner; but as the court is not permanently in session and would have to be constituted for the express purpose of formulating the agreement, it follows that the agreement must in reality be the result of the consent of both parties, because the court can only be constituted by the joint act and cooperation of both parties litigant. It is supposed, however, that the presence of such a possibility may lead disputants to reach a conclusion, even although they do not care to avail themselves of the machinery provided.

It should be noted that the second section of article 53 refers to the arbitration of differences arising from contractual debts. As the agreement to renounce the use of force depends upon arbitration, and as arbitration is impossible without the preliminary agreement of submission, it may happen that a failure to agree would destroy, in large measure, the value of the convention. It is hoped that the provisions of this article will enable the agreement to be formulated in extreme cases and thus exclude even the suggestion of force.

The other changes made in the procedure are important, but are not of a nature to cause discussion or comment, because they facilitate but do not otherwise modify the proceedings before the court.

Chapter IV of the revised convention deals with summary arbitration proceedings. Experience shows that it is difficult to constitute the Permanent Court, and that a trial before it is lengthy as well as costly. The Conference, therefore, adopted the proposal of the French delegation to institute a court of summary procedure, consisting of three judges instead of five, with a provision that the umpire, in case of disagreement, be selected by lot from members of the Permanent Court strangers to the controversy. The proceedings are in writing, with the right of each litigant to require the appearance of witnesses and experts. It was hoped that a small court with a summary procedure might lead nations to submit cases of minor importance and thus facilitate recourse to arbitration and diminish its expense.

From this brief survey of the amendments to the convention for the peaceful adjustment of international differences it will be seen

that they are not in themselves fundamental, that they do not modify the intent or purpose of the original convention, but that they render the institution of 1899 more efficient in the discharge of its duties. The American delegation, therefore, assisted in the work of revision and signed the convention.

II.—CONVENTION CONCERNING THE LIMITATION OF THE EMPLOYMENT OF FORCE IN THE COLLECTION OF CONTRACT DEBTS.

This convention is composed of but two paragraphs, and in simplest terms provides for the substitution of arbitration for force in the collection of contractual debts claimed of the Government of one country by the Government of another country to be due to its nationals. The renunciation of the right to use force is explicit, but to receive the full benefit of this renunciation the debtor must in good faith accept arbitration. Should the parties be unable, or should it be difficult, to formulate the special agreement necessary for the submission of the case, resort may be had to the Permanent Court for the establishment of the special agreement (*compromis*) in accordance with article 53 of the convention for the peaceful adjustment of international differences.

Finally, the arbitration shall determine, in the absence of agreement between the parties, the justice and the amount of the debt, the time and the mode of payment thereof. It would seem, therefore, that this convention of but two articles will prevent a recourse to force in the future for the collection of contract debts. It should not be overlooked that the agreement to arbitrate is obligatory upon debtor as well as creditor and that the acceptance of the convention is a triumph for the cause of arbitration. It is true that the right to use force was only renounced conditioned upon an arbitration of the indebtedness, but it is not too much to say that the debtor nation may henceforth protect itself from the danger of force and that the application or nonapplication of force really depends upon the good faith of the debtor. This convention was introduced by the American delegation and adopted by the Conference.

III.—CONVENTION RELATIVE TO THE OPENING OF HOSTILITIES.

The convention is very short and is based upon the principle that neither belligerent should be taken by surprise and that the neutral shall not be bound to the performance of neutral duties until it has received notification, even if only by telegram, of the outbreak of war. The means of notification is considered unimportant, for if the neutral knows, through whatever means or whatever channels, of the existence of war, it can not claim a formal notification from the belligerents before being taxed with neutral obligations. While the importance of the convention to prospective belligerents may be open to doubt, it is clear that it does safeguard in a very high degree the rights of neutrals and specifies authoritatively the exact moment when the duty of neutrality begins. It is for this reason that the American delegation supported the project and signed the convention.

IV.—CONVENTION CONCERNING THE LAWS AND CUSTOMS OF WAR ON LAND.

The Conference of 1899 codified the laws of warfare on land within the compass of sixty articles, to which was prefaced an introduction of a formal nature consisting of five articles. The recent Conference revised the convention of 1899, modified it in parts, and added various provisions in order to render the codification as complete and thorough, as accurate and scientific, as the changeable nature of the subject will permit. Following the arrangement of 1899, the revised convention contains several introductory articles, one of which will be discussed later. The various modifications and the additions of the revised convention will be briefly set forth in the order of the convention.

Article 2 is substantially the original text of 1899, with the additional requirement that the population of a nonoccupied territory shall be considered as belligerent "if it carries arms openly and respects the laws and customs of war." States with large permanent armies are unwilling to accord belligerent rights to populations rising at the approach of an enemy. The smaller States, on the contrary, which do not maintain large standing armies, rely upon the patriotism of the mass of the people. This article is conceived in the interest of the small Power with a small standing army, but requires that the population shall not only conform to the laws of war, but shall bear arms openly, so that their military character may be evident.

Article 5 is amended in the interest of the prisoners of war. In its original form the article permitted the internment of prisoners and their confinement "as an indispensable measure of security." The right of confinement is restricted by the addition of the phrase "and only during the existence of the circumstances which necessitate that measure."

Article 6 is slightly modified and improved by withdrawing from captor States the right to utilize the labor of "commissioned officers." The final paragraph of the original article provided that prisoners should be paid for their work and labor according to the tariffs in force for soldiers of the national army. As it appeared that tariffs in this case were not universal, the following clause was added: "If there are no established rates, at rates appropriate to the work done."

The bureau of information regarding prisoners of war was established by article 14 and, although excellent in conception, is defective in certain regards; for example, inadequate provision is made for keeping the records of individual prisoners of war and for the disposition of their records at the termination of the war. The revision supplies the omissions.

Article 17 in original form provided that officers who were prisoners of war should receive pay according to the tariff of their country. As, however, many nations, including the United States, allow no pay to such prisoners, the article was revised and modified to read as follows:

> The Government will allow to officers who are prisoners in its hands the pay to which officers of the same grade are entitled in its own service, subject to the condition that it shall be reimbursed by their own Government.

To a nation which cultivates neutrality this provision can impose no serious burden.

Article 23 prohibits certain means of destruction and certain actions of belligerents. To the large category are added two additional paragraphs. It is forbidden to declare extinguished, suspended, or inadmissible in courts of justice the rights and choses in action of the citizens or subjects of the adverse party. The second addition demands more than a quotation, for the additional paragraph forbids a belligerent to force enemy citizens or subjects into taking part against their country, even although such citizens or subjects may have been in its service before the commencement of the war. While it can not be said that war is exclusively a relation between State and State, the modern tendency is to exclude peaceful noncombatants from its rigors. The inhibition of this paragraph frees the population of an invaded territory from being called upon and forced to serve and extends the inhibition to those who may have been in the service of the belligerent before the outbreak of the war. Attention may be called in this place to article 44, which further extends and safeguards the right of the inhabitants of occupied territory by forbidding the enemy to force the inhabitants to give information concerning the opposing army or its means of defense.

The original article 25 forbade belligerents to attack or bombard undefended towns, villages, dwelling places, or buildings. The framers of this article had in view the ordinary means of attack and bombardment. The increased employment of balloons or other like agencies in military operations suggested the insertion of the phrase "by any means whatsoever," so that undefended towns, villages, dwellings, or buildings are not subject to land, aerial, or, as will be seen later, naval attack. (See Convention IX.) In article 27 historical monuments are included in the buildings exempt from bombardment.

A slight addition is made to article 52, providing that the payment of levies in kind, verified by receipts, "shall be arranged for as soon as possible." A nearer approach is thus made to final payment.

Article 53 as amended brings within the scope of military operations "all means of communication and of transport employed on land or sea or in the air for the conveyance of persons, things, or messages," but provides that they shall be restored and indemnities agreed upon at the establishment of peace. The last paragraph of the article provides that submarine cables connecting the occupied or hostile territory shall only be subject to destruction or seizure in case of absolute necessity. They are likewise to be restored and indemnities agreed upon.

Such are the changes suggested by the experience of the past eight years proposed to and adopted by the Conference. Few in number, their importance is considerable, if for no other reason, that they make for completeness, supplying omissions and resolving doubts. An officer in the field can not well be expected to weigh and balance with nicety the vexed problems of international law. A clear and concise code is what he needs and must have. This the convention *supplies,* and it must therefore be widely acceptable, although we

may well cherish the hope that its dispositions may not be tested for years upon the battlefield or in campaign.

In one respect, however, the revised convention clearly surpasses its predecessor, for article 3 of the introduction supplies a sanction for the violation of its provisions. To quote literally:

> The belligerent party who shall violate the requirements of these regulations shall be held to indemnity in a proper case. It will be responsible for all acts committed by persons forming a part of its armed forces.

Upon this article and the reasons prompting it the military delegate uses the following apt and convincing language:

> It is one of the most essential rules of international good neighborhood that the States composing the family of nations shall be guided by the highest good faith in the execution of their treaty obligations. The rules of war of 1899 form no exception to this wholesome and necessary rule. It should be observed, however, that the several requirements of the undertaking are carried into effect—not under the immediate control and direction of the foreign offices of the signatory Powers, but by military officers in the theatre of hostile activity, each acting within the sphere of his command and duty in the military establishment of the belligerent under whose flag he serves. It is not surprising that differences of interpretation and of execution should have arisen in the application of the convention of 1899, or that undue severity should have been shown, from time to time, in the exercise of authority by subordinate commanders. To correct this dangerous tendency and give due emphasis to the well-established administrative principle that the State itself is responsible for the acts of its military commanders and subordinate agents, it was determined to add a concluding paragraph having some of the aspects of a penal clause. Its operation will be to require those charged by their Governments with the exercise of high military command to maintain such a constant supervision over the acts of their subordinates as will be calculated to secure the exact and rigorous enforcement of the several requirements of the convention.
>
> If the circumstances of a particular war are such as to suggest the application of a rule of limitation to cases arising under the article, such mutual stipulations in that regard as are warranted by the facts may properly find a place in the treaty of peace.

V.—CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN LAND WARFARE.

This convention is divided into five chapters, dealing, respectively, with the rights and duties of neutral Powers (arts. 1–10), prisoners and wounded in neutral territory (arts. 11–15), neutral persons (arts. 16–18), railroad material (art. 19), and, finally, dispositions of a formal nature.

The various provisions of the first chapter are largely declaratory of international law and of recognized usage, providing, generally, for the inviolability of neutral territory (art. 1) and that forcible repression of violations of neutral territory can not be considered a hostile act (art. 10); that belligerents may not use neutral territory for purposes of transit either of army or supplies (art. 2); that belligerents shall not install upon neutral territory wireless-telegraph apparatus (art. 3); that detachments shall not be recruited or enrolled in neutral territory (art. 4), but a neutral is not taxed with responsibility by the sole fact that individuals pass its frontiers singly to take service with the enemy (art. 6); that the neutral should not tolerate upon its territory any acts falling within articles 2–4, but is only constrained to punish these acts as contrary to neutrality if actually committed upon its territory (art. 5); that a neutral is not bound to forbid or hinder the exportation or transit, for the account of either belligerent, of arms, munitions, or, in gen-

eral, of anything which may be useful to an army or fleet (art. 7); nor is it obliged to interdict or restrain the use by belligerents of its cables, telephones, or telegraphic apparatus, whether owned by the State or private companies (art. 8); but the provisions of articles 7 and 8 shall be applied indiscriminately to either belligerent.

The provisions of the chapter dealing with the treatment in neutral countries of interned prisoners and wounded are humanitarian in all their parts and require no comment.

Chapter III, dealing with neutral persons, is but a fragment of the various articles submitted by the German delegation to safeguard the rights of neutral persons and property found upon enemy territory. Briefly, they may be summarized as follows: Citizens or subjects of a neutral State not taking part in the war are considered neutrals (art. 16), but lose their neutral character if they commit acts of hostility against or in favor of a belligerent, especially if they take service with one or the other enemy (art. 17). The neutral character, however, is not forfeited by the following acts:

a. Supplies furnished or loans voluntarily made to one of the belligerent parties, provided the furnisher or lender is not a resident of the territory of the other party or of territory in its military occupation and the supplies furnished are not furnished from either of these territories.

b. Services rendered in connection with police or civil administration.

Chapter IV consists of but a single article, providing, briefly, that railroad material belonging to neutral States, corporations, or private individuals shall only be requisitioned or used by a belligerent in case of imperious necessity; that it shall be returned to the country of origin as soon as possible; that a neutral may use like property belonging to a belligerent in case of necessity, and that an indemnity shall be paid for such use. (Art. 19.) This last article is unlikely to have any great importance in a country so situated as the United States, but to a country surrounded by strong and powerful neighbors, as is Luxemburg, the proposer of the article, it may be of no little advantage.

The convention as a whole received the support of the American delegation and was signed by the plenipotentiaries.

VI.—CONVENTION REGARDING THE ENEMY'S SHIPS OF COMMERCE AT THE BEGINNING OF HOSTILITIES.

The uninterrupted practice of belligerent Powers since the outbreak of the Crimean war has been to allow enemy merchant vessels *in their ports at the outbreak of hostilities* to depart on their return voyages. The same privilege has been accorded to enemy merchant vessels which sailed before the outbreak of hostilities, to enter and depart from a belligerent port without molestation on the homeward voyage. It was therefore the view of the American delegation that the privilege had acquired such international force as to place it in the category of obligations. Such, indeed, was the view of a majority of the Conference, but as the delegation of Great Britain adhered to the opinion that such free entry and departure was a matter of grace, or favor, and not one of strict right, the articles regard it as a delay by way of favor and refer to the practice as *desirable*.

In support of the American view the case of the *Buena Ventura* is in point. This case was decided in 1899, and in his opinion Justice Peckham says:

> It being plain that merchant vessels of the enemy carrying on innocent commercial enterprises at the time or just prior to the time when hostilities between the two countries broke out would, in accordance with the later practice of civilized nations, be the subject of liberal treatment by the Executive, it is necessary when his proclamation has been issued, which lays down rules for treatment of merchant vessels, to put upon the words used therein the most liberal and extensive interpretation of which they are capable; and where there are two or more interpretations which possibly might be put upon the language, the one that will be most favorable to the belligerent party, in whose favor the proclamation is issued, ought to be adopted.
>
> This is the doctrine of the English courts, as exemplified in *The Phoenix* (Spink's Prize Cases, 1, 5) and *The Argo* (Id., p. 52). It is the doctrine which this court believes to be proper and correct. *The Buena Ventura* (175 U. S., 388).

At the first reading, the convention seems to confer a privilege upon enemy ships at the outbreak of war. Free entry and departure are provided for, ships are not to be molested on their return voyages, and a general immunity from capture is granted to vessels from their last port of departure, whether hostile or neutral. But all these immunities are conditioned upon ignorance of the existence of hostilities on the part of the ship. This condition forms no part of the existing practice, and it was the opinion of the delegation that it substantially neutralized the apparent benefits of the treaty and puts merchant shipping in a much less favorable situation than is accorded to it by the international practice of the last fifty years.

An enemy merchant vessel approaching a hostile port which is notified by an armed cruiser, or which obtains the information under circumstances calculated to charge it with knowledge of the fact that hostilities exist, forfeits the immunities conferred by the treaty and becomes, *eo instante*, liable to capture. As the freight trade of the world is carried on in steamers which habitually carry only enough coal to reach their destination, the operation of the treaty is to render them instantly liable to capture, the alternative being to continue to the hostile destination and surrender.

The convention operates powerfully in favor of a State having a predominant naval force and possessed of numerous ports throughout the world, so situated that a merchant vessel carrying its flag may take refuge in such ports on being notified that hostilities exist. All other Powers would be placed in a position of great disadvantage, and their merchant marine would suffer incalculable injury as the result of its adoption.

The effects upon the practice of marine insurance are also important. The ordinary contract does not cover a war risk. The operation of a war risk is simple because its conditions and incidents are fully known. But a policy calculated to cover the contingency of capture, the risk depending upon the chance or possibility of notification, would introduce an element of uncertainty into marine risks which, in view of the interests at stake, should not be encouraged.

The convention also presents an undesirable alternative in the treatment of enemy merchant ships, in that it provides that in certain cases they may be seized "subject to restoration after the war without indemnity," or to "immediate requisition with indemnity." As merchant marine commerce is carried on it is obvious that the condition of the cargo which is detained in indifferent or inefficient

custodianship during the ordinary duration of war would approach confiscation. It would also be substantially impossible to make such a risk the subject of a practicable contract of insurance.

The foregoing convention was not signed by the delegation, and its acceptance as a conventional obligation is not recommended.

VII.—CONVENTION FOR REGULATING THE TRANSFORMATION OF VESSELS OF COMMERCE INTO VESSELS OF WAR.

The delegation found no objection to the requirements of the foregoing convention in so far as its application to the transformation of purchased or chartered vessels into public armed vesesls is concerned.

The preamble recites the fact that the Powers have been unable to come to an agreement as to the transformation of a merchant vessel into a public armed vessel on the high seas in time of war. For that reason the convention is silent as to the place where such transformation shall take place, and the several articles of the convention are restricted in their operation to such other incidents of the transformation as relate to the authority to make it, the public record of the fact, the external marks of the transformed vessel, the character of the officers and crew, the discipline to be maintained, and the subjection of the vessel in its operations to the rules of maritime warfare.

It will be noted that the question of the place where the transformation of vessels of commerce into vessels of war is expressly excluded by the preamble to the convention because the Conference was unable to harmonize the divergent views upon this matter. The American delegation, wishing to obviate controversies in the future, insisted that the transformation should take place either within the home port or territorial waters of the transforming country. Other delegations insisted that the transformation might take place not only within the home ports and territorial waters, but upon the high seas. As the difference of opinion was radical and irreconcilable, it was agreed to eliminate the question from the convention, but with such elimination the convention ceased to have any great value.

The delegation would, perhaps, have approved and signed the convention as it stands were it not for the fact that the Conference considered its provisions as the corollary of the Declaration of Paris and as a guarantee against a more or less disguised return to the practice of privateering. The United States has not renounced the right to resort to privateering, although it has on various occasions expressed a willingness so to do if the inviolability of unoffending private property belonging to the enemy on the high seas be guaranteed. The American delegation made a declaration to that effect at the thirteenth session of the committee of examination and repeated it at the seventh plenary session of the Conference on September 27, 1907, in the following language:

> It is evident that the propositions incorporated in the report of the committee of examination have for their principal object the reiteration of the Declaration of Paris relative to the abolition of privateering. It is well known that the Government of the United States of America has not adhered to that Declaration for the sole reason that it *refuses to* recognize the inviolability of private property on the high seas. The propo*sitions submitted present* questions solely for the consideration of the Powers which are

signatories of the Declaration of Paris, and consequently our delegation must, for the present, decline to participate in their discussion and abstain from voting. If, however, the Conference, by its action, should establish the inviolability of private property on the seas, this delegation would be pleased to vote for the abolition of privateering.

The delegation was not unmindful of an internal and constitutional question in taking this action, for Congress is given by the Constitution the power "to declare war, *grant letters of marque and reprisal*, and make rules concerning captures on land and water." (Constitution, Art. I, sec. 8, cl. 10.) At various times Congress has exercised this right, by the acts of June 18, 1812, June 26, 1812, and January 27, 1813, the latter two in furtherance of or amendment to the original act of 1812. In view of the constitutional origin and nature of the right to grant letters of marque and reprisal, and in view of the fact that this right has been exercised by Congress, it seemed to the American delegation inadvisable to seek to bind the United States by conventional stipulations.

VIII.—CONVENTION IN REGARD TO THE PLACING OF SUBMARINE MINES.

The question of imposing restrictions upon the employment of submarine mines gave rise to extensive discussion and was made the subject of numerous propositions. Some of these were adopted and some were rejected by the Conference. It is quite safe to say, however, that, due to the enormous loss of life and property as a result of the floating mines in the China Sea since the close of hostilities in the vicinity of Port Arthur, international public opinion now demands that anchored mines which may break loose from their moorings, shall, by the fact of going adrift, become harmless. There is a similar demand that nonanchored mines, if employed by belligerents in time of war, shall become inoffensive within a very short time, one or two hours at the longest, after they have passed out of the control of the party who planted them in the high seas or in the territorial waters of a belligerent. Beyond this, if there has been a formulation of public opinion, it is not unanimous and, possibly for that reason, has not found unequivocal expression.

The clauses which were inserted in deference to the demands of the insistent public opinion of the civilized world are embodied in the three numbered paragraphs of Article I. In Article II the placing of mines is prohibited along the coasts or before the ports of an adversary for the sole purpose of interrupting commercial navigation. In other words, a blockade may not be established and maintained by the sole use of submarine mines. Articles III, IV, and V are intended to provide for the safety of navigation of mine fields by commercial vessels and to insure the removal of mines at the close of the war. Article IV permits neutrals to use mines in the enforcement of their neutral rights and duties. Article VI contains the stipulation that Powers whose existing systems of mine defense do not conform to the requirements of the convention shall bring about such conformity "as soon as possible." In Article VII the life of the convention is restricted to seven years, or until the close of a Third Peace Conference if that date is earlier.

The convention as adopted by the Conference in plenary session was generally acceptable to maritime Powers and was approved by the delegation of the United States.

IX.—CONVENTION CONCERNING THE BOMBARDMENT OF UNDEFENDED PORTS, CITIES, AND VILLAGES BY NAVAL FORCES IN TIME OF WAR.

The question which the Conference undertook to regulate by a convention might be considered academic were it not for the fact that the possibility of the bombardment of undefended ports, cities, and villages has been suggested and fear expressed that it be carried into practice. It is therefore advisable to prevent in express terms the occurrence of such bombardments; a precedent exists, and the convention brings the rules of land and naval warfare into exact harmony. For example, the rule adopted by the Conference of 1899 is as follows: "The attack or bombardment of towns, villages, habitations, or dwellings which are not defended is prohibited." (Convention Concerning Laws and Customs of Land Warfare of 1899, art. 25.)

In applying a remedy to the situation above outlined, the Conference went somewhat beyond the strict necessities of the case. The prohibition in respect to bombardment is embodied in article 1 of the convention, the last clause of which contains the wholesome require- that the mere fact that submarine mines are planted in front of a particular port or place shall not operate to take it out of the class of undefended towns.

In article 2, which is in the nature of an excepting clause, a naval force is authorized to be employed against "military works, military or naval establishments, depots of arms or material of war, shops and establishments suitable to be utilized for the needs of the enemy's army or navy, and vessels of war then in port." This requirement may be properly regarded as declaratory of the existing rule, which authorizes the destruction of works or establishments in which material of war is manufactured. The mere presence of an armed vessel in the port operates to take the place out of the class of undefended towns.

Article 3 authorizes the employment of naval force to enforce compliance with a proper naval requisition—as for coal or provisions. If the right to impose requisitions be conceded—and none is better established in international law—it would inevitably follow that force may be used to collect them. To that extent, therefore, article 3 is declaratory. The requirement in respect to the amount and character of the requisition is not only new, but proper.

In article 4 it is expressly forbidden to bombard undefended towns for the nonpayment of contributions as distinguished from requisitions. This is a wise and salutary provision.

Chapter II is intended to regulate the naval bombardment of fortified places and defended towns and imposes upon the attacking force the same restrictions in respect to historical monuments, churches, artistic and scientific collections, hospitals, and similar edifices, which are already recognized in land warfare. (Art. XXVII, Hague Convention, 1899.) It is also made the duty of the local authorities or inhabitants to designate the buildings which are entitled to immunity by a conventional sign, consisting of two large rectangles on which two triangles are superposed, the upper one being colored black and the lower white.

Article 6 charges the commander of the attacking forces with the duty, so far as the military necessities permit, of doing every*thing* in his power to warn the local authorities of the intended

bombardment. (Art. XXVI, Hague Convention, 1899.) In Article 7 pillage is expressly forbidden. (Art. XXVIII, *Ibid.*)

From the humanitarian standpoint the convention is desirable, and it is difficult to see how naval operations can suffer by the observance of the conventional restrictions. The American delegation, therefore, approved and signed the convention.

X.—CONVENTION FOR THE ADAPTATION OF THE PRINCIPLES OF THE GENEVA CONVENTION TO MARITIME WAR.

It is the purpose of this convention to replace the corresponding requirements of the Maritime Convention of July 29, 1899, in respect to the care and treatment of the sick and wounded in maritime warfare. The convention of 1899 was based upon the humane but inadequate, and to some extent obsolete, provisions of the Geneva Convention of 1864. That convention has now been replaced by the new agreement, to which thirty States of the civilized world were signatory parties, entered into at Geneva, Switzerland, on July 6, 1906.

The Geneva Convention of 1906 embodies the advances which have been made in the treatment of the sick and wounded in the forty-two years which had elapsed since the adoption of the original agreement in 1864. The new undertaking, which is restricted in its operation to warfare on land, represents the experience gained in recent military operations in the sanitation, transportation, and treatment of the sick and wounded. It is also in close touch with the great volunteer relief associations, of which the Red Cross Society of the United States is an example, whose function it is not alone to emeliorate the condition of the sick and wounded in time of war, but to act promptly in time of peace with a view to relieve hardship and suffering due to flood, fire, or famine, wherever and under whatsoever circumstances they may occur.

To that end, the convention, like the Geneva Convention of 1906, provides a method of cooperation between the official and charitable agencies which is calculated to secure harmonious and efficient action in the theater of hostile military activities.

It was the purpose of the conference to introduce such amendments and ameliorations into the Maritime Convention of 1899 as were thought necessary to bring it into conformity with the humane requirements of the Geneva Convention of 1906. In point of completeness and efficiency the new convention leaves nothing to be desired.

XI.—CONVENTION WITH REGARD TO CERTAIN RESTRICTIONS UPON THE RIGHT OF CAPTURE IN MARITIME WAR.

This convention marks an important step in advance, in that it confers an immunity from capture upon all postal correspondence, public or private, carried as mail on a neutral or enemy vessel. The parcels post is excepted or, to speak more correctly, is not expressly included in the conventional immunity. The carrying vessel is not exempt from seizure, in a proper case, but in the event of capture the belligerent becomes charged with the duty of forwarding the mails to their destination "with the least possible delay."

Violation of blockade is excluded from the beneficial operation of the convention in article 1, and the liability to search and capture are provided for, subject to reasonable restrictions, in article 2.

The exemption of fishing boats from capture in time of war has been accorded in a number of cases, notably in the leading case of *The Paquete Habana* ([1899] 175 U. S., 677), arising out of the Spanish war, but there have been exceptions, and the rule is by no means one of universal application. The operation of the treaty is to give to the better practice the sanction of conventional obligation and to include small nonseagoing vessels, exclusively engaged in the coast trade, within its beneficial operation. Article 2 confers a similar immunity upon the vessels engaged in scientific, religious, or philanthropic missions.

The concluding chapter regulates the treatment to be accorded to neutral and enemy subjects found on board a captured enemy merchant vessel. The language of the naval delegate states the aim and purpose of the stipulations in the following concise and apt terms:

> A distinction is made between neutral and enemy subjects. The neutral citizens or subjects in the crew are released unconditionally without any engagement. The officers who are neutral citizens or subjects are released upon giving a written engagement not to serve on board an enemy ship during the war.
>
> The enemy subjects or citizens are required to give a written engagement not to take part in any service having relation to the operations of the war during the continuance of hostilities.
>
> The reserve contained in Article IV is intended to apply to the case of vessels engaged in *unneutral* service such as the conveyance of fuel or supplies directly to the fleet and, in general, to merchant vessels cooperating with naval forces. The crews of such vessels under the present rules of international law are subject to retention as prisoners of war and no new hardship is imposed.

As the convention in all its parts is conceived in a highly humane spirit, the American delegation both approved and signed it.

XII.—CONVENTION REGARDING THE ESTABLISHMENT OF AN INTERNATIONAL PRIZE COURT.

The details of this convention, as would be expected in an act organizing an international prize court, are complicated. The fundamental principle, however, is simple, namely, that the court of the captor should not pass ultimately upon the propriety or impropriety of a seizure made by the national authorities of which the judge is a subject or citizen; in other words, that one should not be judge in his own cause. It is stated by judges of the highest repute, the great Lord Stowell among the number, that a prize court is an international court, although sitting within the captor's territory and established in pursuance of the rules and regulations issued by the captor; that the law administered in such a court is international law; and that the judgment of the court, in the absence of fraud, is universally binding. This may be the theory, although it seems much like a fiction, for the fact is that prize courts or courts exercising prize jurisdiction are constituted by the municipal authorities; that the judges are appointed, as other municipal judges, by the sovereign power of the State; that the law administered in the court, whether it be largely international in its nature or not, is the municipal or the prize law of the appointing country, and that the judgment delivered has the essential qualities of a national judgment. Even if

the court were strictly international, the judge is, nevertheless, a citizen or subject of the captor, and national prejudices, bias, or an indisposition to thwart the settled policy of his country must insensibly influence the judge in the formation of his opinion. The presumption is in favor of the validity of the capture; upon the neutral is imposed the hard and difficult task to overcome this presumption, and the frequency with which judgments of courts of prize, even of the highest and most respectable courts, have been protested through diplomatic channels and the questions submitted anew to the examination of mixed commissions and decided adversely to the captor, would seem to establish beyond reasonable doubt that, international in theory, they are national in fact and lack the impartiality of an international tribunal. Nor are instances lacking of the submission of questions to a mixed commission which have been passed upon by the Supreme Court of the United States sitting as a court of appeal in prize cases, and in which the United States has by virtue of an adverse decision of a mixed commission reimbursed the claimants. Reference is made by way of example to the well-known case of *The Circassian* ([1864] 2 Wall., 135, 160) in which the British and American Mixed Commission made awards in favor of all the claimants. (4 Moore's International Arbitrations, pp. 3911–3923.)

The purpose, then, of the convention is to substitute international for national judgment and to subject the decision of a national court to an international tribunal composed of judges trained in maritime law. It was not the intention of the framers of the convention to exclude a judge of the captor's country whose presence on the bench would insure a careful consideration of the captor's point of view, but to make the decision of the case depend upon strangers to the controversy who, without special interest and national bias, would apply in the solution of the case international law and equity. The national judgment becomes international; the judgment of the captor yields to the judgment of the neutral, and it can not be doubted that neutral Powers are more likely to guard the rights of neutrals than any bench composed exclusively of national judges.

It is not to be presumed, however, that the judgment of the captor will be biased or, if the judgment of the court of first instant be incorrect, that its judgment will not be reversed on appeal to the higher court. It can not be supposed that a judgment of a district court of the United States, if improper, would be affirmed by the Supreme Court of the United States; and it may safely be assumed that few litigants would care to carry a case from the Supreme Court of the United States to an international court, wherever and however established. Delay and expense would militate against it, the known impartiality and the reputation of the Supreme Court would counsel against it, and it would only be an extreme case and one of great importance that would induce private suitor or National Government to seek a reexamination of the case before an international court.

The American delegation was unwilling to allow an appeal directly from the district court to the international court, as in the original German project, holding that the captor's court of appeal should be given the opportunity to correct or revise a judgment and that if a case be submitted to the international court that court would derive inestimable benefit from a careful consideration of the judgment of the Supreme Court. The project was amended so as to permit one

national appeal, out of consideration to the objections of the United States and Great Britain, and when so amended was acceptable to both.

The provisions of article 46 are of importance in this connection. This article provides, briefly, that each party pays its own expenses; the defeated party the expenses of the procedure and in addition pays into the court 1 per cent of the value of the object in litigation to the general expenses of the court. Finally, if the suitor be not a sovereign State, but a private individual, a bond may be exacted by the court to guarantee the expenses above mentioned as a condition of taking jurisdiction. It needs no further argument to show that a case is not likely to be presented to the international court unless the amount or principle involved justifies the submission.

Admitting, however, the possibility of appeal, it is important, in the interest of international justice as well as in the interest of the individual suitor, that there be an end of litigation and that the principle of law applicable to the concrete case be established in a judicial proceeding. It is therefore provided that the appeal from the court of first instance to the national court of appeal shall have been perfected and the case decided within two years from the date of capture, which period was acceptable to Great Britain, a joint proposer with Germany, notwithstanding the fact that the appeal might be from a British vice-admiralty court situated in a remote quarter of the globe. An examination of all the appeals taken from the judgments of district courts in cases arising out of the late Spanish-American war shows that this period of time was adequate for the ultimate disposition of those cases before the Supreme Court of the United States. The period, therefore, was satisfactory to the American delegation. But it might happen that the case was not settled either in the court of first instance or in the international court of appeal within the conventional period of two years. In such a case it is provided that the case may be transferred from the national court and submitted to the International Court of prize at The Hague. Should these provisions commend themselves generally, cases will be decided promptly by national courts, and the ultimate decision of the international court, if one there is to be, will be handed down before the suitor is broken in fortune and years.

The proposed court is to consist of fifteen judges, of whom nine shall constitute the quorum necessary for the transaction of business. (Art. 14.) They are to be chosen from among jurists of recognized competency in questions of international maritime law and should possess the highest moral consideration. They are to be nominated for a period of six years, and their appointment may be renewed. Of the fifteen judges, eight countries possess the right to nominate each a judge to serve for the full period of six years. In the alphabetical order of the French names these countries are Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia. The remaining seven judges are appointed for a like period of six years, but exercise their functions as judge within a shorter period, the length of active service depending largely upon the commercial and maritime importance of the various nations, their supposed interest in the questions likely to come before the court, and the frequency with which they may appear as suitors. The exact manner in which and the periods during which all the other

judges shall be called to exercise their functions appear from the table annexed to the convention and made a part thereof. (Art. 15.) Any classification is bound to be more or less arbitrary, and its acceptance demands no little sacrifice on the part of the State which possesses less than the full representation. It was felt that the continuous presence in the court of judges representing the eight States mentioned would form a nucleus of trained judges and that the weight and authority of these judges based upon training and experience would counterbalance the disadvantage of the changes introduced in the court by the successive participation of representatives of different countries.

As the proposed court is to be international and is to be established primarily to settle peaceably and by judicial methods controversies arising between State and State involving the validity of capture, the sovereign States whose interests are involved in the controversy may appear before the prize court just as such sovereign States in other than prize matters may and do actually appear before an arbitration tribunal. It may thus be that sovereign States will ordinarily be parties plaintiff and defendant.

It may, however, happen that a State does not wish to espouse the cause of its citizen, although convinced that an injustice has been committed. In such a case it would seem to be eminently proper that the injured individual should himself appear before the court and litigate the question. The fourth article of the convention invests an individual claimant with such right; but, less the exercise of the right may prove embarrassing to the State, the same article makes this right depend upon the permission of the State whereof the claimant is a subject or citizen, and acknowledges the right of such State either to prevent his appearance or to appear on behalf of such subject or citizen. It is thus seen that whether the State is party litigant or not, it reserves fully the right to control the litigation.

The jurisdiction of the proposed court is dealt with in article 7, the translation of which is as follows:

If the question of law to be decided is provided for by a convention in force between the belligerent captor and the Power which is itself a party to the controversy or whose citizen or subject is a party thereto, the International Court shall conform to the stipulation of the said convention.

In the absence of such stipulations, the International Court shall apply the rules of international law. If generally recognized rules do not exist, the court shall decide in accordance with general principles of justice and equity.

The foregoing provisions shall apply with regard to the order of admission of evidence as well as to the means which may be employed in adducing it.

If, in accordance with article 3, No. 2 c, the appeal is based on the violation of a legal provision enacted by the belligerent captor, the court shall apply this provision.

The court may leave out of account statutes of limitation barring procedure according to the laws of the belligerent captor, in case it considers that the consequences thereof would be contrary to justice and equity.

It can not be denied that the question of the jurisdiction of the court is not only of general interest, but of fundamental importance to the contracting parties. The first clause of the article calls attention to conventional stipulations which, if establishing rules of law, shall be binding upon the court in controversies between parties to the convention. It was hoped that the provisions of prize law likely to give rise to controversies would be codified by the Conference and that, therefore, there would be a conventional law prescribed by

the Conference for the proposed court. A general agreement was not, however, reached.

The jurisdiction of the court, as set forth in article 7, was proposed by Great Britain, and accepted by the Conference as interpreted by the learned and distinguished reporter, Mr. Louis Renault, from whose elaborate report the following weighty passages are quoted as the best contemporary interpretation of the article:

What rules of law will the new prize court apply?

This is a question of the greatest importance, the delicacy and gravity of which can not be overlooked. It has often claimed the attention of those who have thought of the establishment of an international jurisdiction on the subject we are considering.

If the laws of maritime warfare were codified, it would be easy to say that the internationol prize court, the same as the national courts, should apply international law. It would be a regular function of the international court to revise the decisions of the national courts which had wrongly applied or interpreted the international law. The international courts and the national courts would decide in accordance with the same rules, which it would be supposed ought merely to be interpreted more authoritatively and impartially by the former courts than by the latter. But this is far from being the case. On many points, and some of them very important ones, the laws on maritime warfare are still uncertain, and each nation formulates them according to its ideas and interests. In spite of the efforts made at the present Conference to diminish these uncertainties, one can not help realizing that many will continue to exist. A serious difficulty at once arises here.

It goes without saying that where there are rules established by treaty, whether they are general or are at least common to the nations concerned in the capture (the captor nation and the nation to which the vessel or cargo seized belongs), the international court will have to conform to these rules. Even in the absence of a formal treaty, there may be a recognized customary rule which passes as a tacit expression of the will of the nations. But what will happen if the positive law, written or customary, is silent? There appears to be no doubt that the solution dictated by the strict principles of legal reasoning should prevail. Wherever the positive law has not expressed itself, each belligerent has a right to make his own regulations, and it can not be said that they are contrary to a law which does not exist. In this case, how could the decision of a national prize court be revised when it has merely applied in a regular manner the law of its country, which law is not contrary to any principle of international law? The conclusion would therefore be that in default of an international rule firmly established, the international court shall apply the law of the captor.

Of course it will be easy to offer the objection that in this manner there would be a very changeable law, often very arbitrary and even conflicting, certain belligerents abusing the latitude left them by the positive law. This would be a reason for hastening the codification of the latter in order to remove the deficiencies and the uncertainties which are complained of and which bring about the difficult situation which has just been pointed out.

However, after mature reflection, we believe that we ought to propose to you a solution, bold to be sure, but calculated considerably to improve the practice of international law. "If generally recognized rules do not exist, the court shall decide *according to the general principles of justice and equity.*" It is thus called upon to *create the law* and to take into account other principles than those to which the national prize court was required to conform, whose decision is assailed by the international court. We are confident that the judges chosen by the Powers will be equal to the task which is thus imposed upon them, and that they will perform it with moderation and firmness. They will interpret the rules of practice in accordance with justice without overthrowing them. A fear of their just decisions may mean the exercise of more wisdom by the belligerents and the national judges, may lead them to make a more serious and conscientious investigation, and prevent the adoption of regulations and the rendering of decisions which are too arbitrary. The judges of the international court will not be obliged to render two decisions contrary to each other by applying successively to two neutral vessels seized under the same conditions different regulations established by the two belligerents. To sum up, the situation created for the new prize court will greatly resemble the condition which has long existed in the courts of countries where the laws, chiefly customary, were still rudimentary. These courts made the law at the same time that they applied it, and their decisions constituted *precedents*, which become an important source of the law. The most essential thing is to have judges who inspire perfect confidence. If, in order to

have a complete set of international laws, we were to wait until we had judges to apply it, the event would be a prospective one which even the youngest of us could hardly expect to see. A scientific society, such as the *Institute of International Law*, was able, by devoting twelve years to the work, to prepare a set of international regulations on maritime prizes in which the organization and the procedure of the international court have only a very limited scope. The community of civilized nations is more difficult to set on foot than an association of juristconsults; it must be subject to other considerations or even other prejudices, the reconcilement of which is not so easy as that of legal opinions. Let us therefore agree that a court composed of eminent judges shall be entrusted with the task of supplying the deficiencies of positive law until the codification of international law regularly undertaken by the Governments shall simplify their task.

The ideas which have just been set forth will be applicable with regard to the order of admission of evidence as well as to the means which may be employed in gathering it. In most countries arbitrary rules exist regarding the order of admission of evidence. To use a technical expression, upon whom does the burden of proof rest? To be rational one would have to say that it is the captor's place to prove the legality of the seizure that is made. This is especially true in case of a violation of neutrality charged against a neutral vessel. Such a violation should not be presumed. And still the captured party is frequently required to prove the nullity of the capture, and consequently its illegality, so that in case of doubt it is the captured party (the plaintiff) who loses the suit. This is not equitable and will not be imposed upon the international court.

What has just been said regarding the order of evidence also applies to the means of gathering it, regarding which more or less arbitrary rules exist. How can the nationality, ownership, and the domicile be proven? Is it only by means of the ship's papers, or also by means of documents, produced elsewhere? We believe in allowing the court full power to decide.

Finally, in the same spirit of broad equity, the court is authorized not to take into account limitations of procedure prescribed by the laws of the belligerent captor, when it deems that the consequences thereof would be unreasonable. For instance, there may be provisions in the law which are too strict with regard to the period for making appeal or which enable a relinquishment of the claim to be too easily presumed, etc.

There is a case in which the international court necessarily applies simply the law of the captor, namely, the case in which the appeal is founded on the fact that the national court has violated a legal provision enacted by the belligerent captor. This is one of the cases in which a subject of the enemy is allowed to appeal. (Art. 3, No. 2 *c*, at end.)

Article 7 which has thus been commented upon, is an obvious proof of the sentiment of justice which animates the authors of the draft, as well as of the confidence which they repose in the successful operation of the institution to be created.

The expediency of the establishment of the prize court must naturally be determined by those entrusted with such matters. The question of the constitutionality of the proposed international court of prize as a treaty court would seem to be precluded by the decision of the Supreme Court of the United States in *Re Ross* (140 U. S., 453). Indeed it would seem that that may well be done generally which may be done singly or individually and that the submission of prize cases to an international court of appeal definitively constituted and in session is a wiser, safer, and more commendable practice than to submit questions of prize law to a mixed commission which may, as happened in the past, decide contrary to the Supreme Court of the United States.

In view, therefore, of the advantages of a permanent court to which an appeal may be taken, and in view of the guaranteed impartiality of an international decision, composed as the court would be in large majority by neutrals, and in view also of the determined policy of the United States to remain a neutral in all international conflicts, it would seem that we need scarcely fear the reversal of the decisions of our courts because such decisions presuppose a war to which we are a party. The existence of the court offers our citizens an international

forum in which to safeguard their interests as neutral buyers and carriers in all parts of the world. The American delegation, therefore, not only approved and signed the convention, but proposed it jointly with Germany, Great Britain, and France.

XIII.—CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS IN CASE OF MARITIME WAR.

This convention deals with the important subject of maritime neutrality and formulates the progress which has been made in that subject in the past half century. It is stated in the preamble that the convention is incomplete; in view of the extent of the field to be covered and the sharply conflicting interests that are involved, a complete treatment of the subject was hardly to be expected. The convention therefore properly contains the suggestion that, in giving effect to its requirements, the rules of international law shall be regarded as supplementing the provisions of the convention. Neutrals are advised that any rules which they may apply, or any measures to which they may resort with a view to the enforcement of their neutral rights or the fulfillment of their neutral obligations, shall be uniformly applied to all belligerents, and shall not be changed during the progress of a particular war.

Out of an abundance of caution the enacting clause contains a provision that the requirements of the convention shall not be regarded as encroaching upon the requirements of existing treaties. In other words, an undertaking like the Black Sea treaty, containing provisions in regard to the passage of war ships through the Dardanelles, is not modified or abrogated by the requirements of the foregoing convention.

The proposition advanced by England represented the strict views of neutral rights and duties which are held by States maintaining powerful naval establishments, supplemented by a widely distributed system of coaling stations and ports of call, in which their merchant vessels could find convenient refuge at the outbreak of war and which enable them to carry on operations at sea quite independently of a resort to neutral ports for the procurement of coal or other supplies or for purposes of repair. As the policy of the United States Government has generally been one of strict neutrality, the delegation found itself in sympathy with this policy in many, if not most, of its essential details. France for many years past has taken a somewhat different view of its neutral obligations, and has practiced a liberal, rather than a strict, neutrality. The views of France in that regard have received some support from the Russian delegation and were favored to some extent by Germany and Austria.

It was constantly borne in mind by the delegation, in all deliberations in committee, that the United States is, and always has been, a permanently neutral Power, and has always endeavored to secure the greatest enlargement of neutral privileges and immunities. Not only are its interests permanently neutral, but it is so fortunately situated, in respect to its military and naval establishments, as to be able to enforce respect for such neutral rights and obligations as flow from its essential rights of sovereignty and independence.

With a view, therefore, to secure to neutral States the greatest *possible* exemption from the burdens and hardships of war, the dele-

gation of the United States gave constant support to the view that stipulations having for that purpose the definition of the rights and duties of neutrals should, as a rule, take the form of restrictions and prohibitions upon the belligerents, and should not, save in case of necessity, charge neutrals with the performance of specific duties. This rule was only departed from by the delegation in cases where weak neutral Powers demanded, and need, the support of treaty stipulations in furtherance of their neutral duties. It was also borne in mind that a State resorting to certain acts with a view to prevent violations of its neutrality derives power to act from the fact of its sovereignty, rather than from the stipulations of an international convention.

The first two articles and the first paragraph of article 3 of the convention represent in substance the existing rule of international law on the subjects of which they treat. The second paragraph of article 3 shifts the obligation from the neutral to the captor, who is bound upon request of the neutral to return the prize captured improperly in neutral waters. The neutral, however, is not obligated to make the demand, and it may thus happen that a powerful captor violates neutral waters without protest from the neutral. It may well be that the spirit of the article imposes the duty upon the neutral; the letter does not. The article seems, therefore, to be objectionable.

Article 5 embodies the second of the rules adopted in the treaty of Washington for the guidance of the Geneva Tribunal, to which is added a prohibition respecting the establishment of wireless-telegraph stations on neutral territory. Article 6 is new and forbids a neutral State, as such, to transfer vessels or munitions of war to a belligerent. Article 7 embodies the existing rule of international law which charges a State with no duty of forbidding the exportation from or transit of war material through its territory in time of war. Article 8 embodies the first of the rules of the treaty of Washington for the guidance of the Geneva Tribunal.

Article 9 is a correct statement of the existing rule of impartiality in the dealings of neutral States with belligerents. The right to forbid access to its ports to a vessel which has failed or neglected to conform to the orders of the neutral State, or has violated its neutrality, is generally conceded.

Article 10 is new in conventional form, and authorizes the passage of an armed vessel or prize through territorial waters. In the absence of restrictive language this would seem to include straits which connect bodies of water which are open to public navigation. It also recognizes the fact that such mere passage through any territorial waters, provided no acts of hostility are committed, does not compromise the neutrality of the State to which they belong. The requirement of the enacting clause, that the provisions of existing treaties are not abrogated or modified by the convention, applies to this article. It may be noted, in passing, that the rule established in article 10 is substantially the same, in so far as free passage is concerned, as the rules prescribed by treaty in connection with the passage of the Suez and Panama canals by public armed vessels in time of war.

The stipulations in respect to the use of licensed pilots (art. 11), the twenty-four hours rule (articles 12 and 13), and the length of sojourn to repair damages stand in need of no comment.

Article 15 is new and is intended to prevent a neutral port from being made either a base of hostile operations or a place of assembly for the fleets of a belligerent. To that end a neutral may restrict at discretion the number of belligerent ships, including auxiliary vessels, that may enjoy its hospitality at any one time. In default of such rule, the number of ships of war or auxiliary vessels that may be in a particular neutral port at the same time is fixed at three.

Article 19 is an extremely important one. It provides that:

ART. 19. Belligerent vessels of war can not revictual in neutral ports and roads except to complete their normal supplies in time of peace.

Neither can these vessels take on board fuel except to reach the nearest port of their own country. They may, however, take on the fuel necessary to fill their bunkers, properly so called, when they are in the waters of neutral countries which have adopted this method of determining the amount of fuel to be furnished.

If, according to the rules of the neutral Power, vessels can only receive coal 24 hours after their arrival, the lawful duration of their sojourn shall be prolonged 24 hours.

ART. 20. Belligerent vessels of war which have taken on board coal in the port of a neutral Power, can not renew their supply within three months in a port of the same Power.

The great Powers of the world are susceptible of being grouped into two classes in the matter of neutral policy. England, having great naval power, supplemented by an extensive system of coaling stations and commercial ports, has always favored and practiced a policy of strict neutrality, France, less powerful at sea, having few naval stations and with few distant colonial possessions, has been more liberal in the enforcement of its neutral obligations, and has allowed considerable aid to be extended to belligerent vessels in its ports. As England has treated both belligerents with impartial strictness, France has treated them with impartial liberality. With this view Russia and, to some extent, Germany and Austria are in sympathy. As has been seen, the policy of the United States has been in the main similar to that of Great Britain.

In the matter of coal the English delegation proposed that the amount of coal which a belligerent vessel might obtain in a neutral port should be restricted to quarter bunkers. The substantial operation of this rule would be that any public armed vessel that entered a neutral port short of coal would have to be interned until the close of the war, as it would be impossible, in a majority of cases, to reach a home port with so meagre an allowance of coal as quarter-bunker capacity. This proposition was rejected, as were a number of suggestions based upon bunker capacity, condition of bottoms, etc., which were so complicated as to be practically impossible in their application.

The result was to reach the compromise which is stated in article 19, as to which it may be said that the liberal States have yielded rather more than those whose policy is one of strict neutrality. The article represents, it would seem, the most satisfactory conclusion possible for the Conference to reach.

Articles 21 to 25 relate to the admission of prizes to neutral ports. Articles 21 and 22 seem to be unobjectional. Article 23 authorizes the neutral to permit prizes to enter its ports and to remain there pending action on their cases by the proper prize courts. This is objectionable for the reason that it involves a neutral in participation in the war to the extent of giving asylum to a prize which the belligerent may not be able to conduct to a home port. This article repre-

sents the revival of an ancient abuse and should not be approved. In this connection it is proper to note that a proposition absolutely forbidding the destruction of a neutral prize, which was vigorously supported by England and the United States, failed of adoption. Had the proposition been adopted, there would have been some reason for authorizing such an asylum to be afforded in the case of neutral prizes.

Article 24 covers the case of the internment of a public armed vessel in a neutral port, and vests sufficient authority in the neutral to insure respect for its sovereign rights and obligations.

Article 25 is a restatement of the third of the rules of the Treaty of Washington, and as such is worthy of adoption.

Article 26 was inserted in the interest of the weaker naval Powers, and contains a stipulation that an exercise of its rights by a neutral State, involving possibly a resort to force, shall not be regarded as an unfriendly act by either belligerent.

Article 27 contemplates a mutual exchange of laws, ordinances, regulations, and other authoritative utterances of the respective Governments in respect to the conduct of belligerent vessels of war in their ports and waters. These are to be transmitted to the Dutch Government and by that Government to the other contracting parties.

This convention was made the subject of reservation at the plenary session of the Conference and was not signed by the American delegation. This was done in order to enable the Department to determine whether, all things considered, it was proper or expedient to subject the performance of its neutral rights and duties to some measures of conventional regulation.

By way of recapitulation: The second paragraph of article 3 and article 23 should not be approved. As to article 19, covering the question of coal supply, it can only be said that it represents a compromise of very divergent interests, and that practice under it in the future will be substantially the same as in the past.

The Naval Delegate of the United States expressed the following opinion:

> The lack of conventional agreements regulating the exercise of neutrality has more than once threatened to involve the whole world in war and perhaps the rules adopted by this Conference, if they are unanimously approved by the maritime Powers, might be accepted as possibly promoting peace, since practically they certify the right of neutrals to do as they please within very wide limits without fear of reclamation, but there is no question that they are not in accord either with the practice of the United States or with its strategic situation.

A careful examination of the convention as a whole and in all its parts leads to the conclusion that its ratification is in the interest of neutral Powers, but that in such ratification it is suggested that the second paragraph of article 3 and article 23 be rejected.

XIV.—DECLARATION FORBIDDING THE LAUNCHING OF PROJECTILES FROM BALLOONS.

This declaration consists of but a single article, the essential portion of which follows:

> The Contracting Parties agree to prohibit, for a period extending to the close of the Third Peace Conference, the discharge of projectiles and explosives from balloons or by other new methods of a similar nature.

The declaration was a reenactment of the analogous provision of the First Conference, which, however, being for a period of five years, had elapsed. In order to prevent the lapse of the present declaration, it was provided that it should remain in effect until the end of the Third Conference.

DECLARATION CONCERNING OBLIGATORY ARBITRATION.

The Conference was unable to agree upon a general treaty of arbitration, although a large majority expressed itself in favor of a general treaty of arbitration, reserving therefrom questions concerning the independence, vital interests, and honor, and setting forth a list of concrete subjects in which the contracting Powers were willing to renounce the honor clause. The principle of obligatory arbitration was unamiously admitted in the abstract, but when it was proposed to incorporate this principle in a concrete case or series of cases insurmountable difficulties arose. Some Powers seemed willing to conclude arbitration treaties with certain other carefully selected Powers, but were unwilling to bind themselves with the remaining nations of the world. Other nations were willing to renounce the honor clause in some subjects but not in others. It seemed to the friends of arbitration feasible to do generally in a single instrument what they had agreed to do in separate treaties with various countries. The majority felt that it was desirable to conclude at The Hague a general arbitration treaty binding those who were willing to be bound, without seeking, directly or indirectly, to coerce the minority, which was unwilling to bind itself. The minority, however, refused to permit the majority to conclude such a treaty, invoking the principle of unanimity or substantial unanimity for all conventions concluded at The Hague. In the interest of conciliation the majority yielded, although it did not share the point of view of the minority. The minority on its part recognized unequivocally and unreservedly the principle of obligatory arbitration, and the following declaration was unanimously accepted and proclaimed by the Conference:

The conference, conforming to the spirit of good understanding and reciprocal concessions which is the very spirit of its deliberations, has drawn up the following Declaration, which, while reserving to each one of the Powers represented the benefit of its votes, permits them all to affirm the principles which they consider to have been unanimously accepted.

It is unanimous:

1. In accepting the principle for obligatory arbitration.
2. In declaring that certain differences, and notably those relating to the interpretation and application of international conventional stipulations, are susceptible of being submitted to obligatory arbitration without any restrictions.

The friends of arbitration were bitterly disappointed and the American delegation abstained from voting on the declaration; first, because it seemed to be an inadmissible retreat from the advanced position secured by an affirmative vote of four to one in favor of the arbritation convention, and, second, lest an affirmative vote be construed to indicate both an approval of the arguments or methods of the minority as well as of the withdrawal of the proposed treaty. It may be admitted that the establishment of the principle of obligatory arbitration is an advance. It is not, however, the great advance so earnestly desired; for a concrete treaty embodying the

principle of obligatory arbitration would have been infinitely more valuable than the declaration of obligatory arbitration, however solemnly made.

RESOLUTION CONCERNING THE LIMITATION OF MILITARY CHARGES.

It is familiar knowledge that the First Peace Conference was called primarily to "secure a possible reduction of the excessive armaments which weigh upon all nations," and in the programme contained in the second Russian circular (January 11, 1899) one of the purposes was stated to be "to reach an understanding not to increase for a fixed period the present effective of the armed military and naval forces, and at the same time not to increase the budgets pertaining thereto, and a preliminary examination of the means by which a reduction might even be effected in the future in the forces and budgets above mentioned." The First Conference failed to agree upon a limitation or a restriction, but adopted unanimously the following resolution:

> The Conference is of opinion that the restriction of militare charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind.

The Second Conference was equally unprepared to limit armaments, to place a restriction upon military or naval forces, or to bind the nations not to increase the budgets pertaining thereto. It will be remembered that the United States reserved the right to bring the question to discussion, although as such it did not figure on the programme. Pursuant to this reservation and instructions from the Secretary of State the American delegation insisted that the subject be discussed and in and out of Conference lent it support. By general agreement a resolution was introduced, supported in an address by the first British delegate and in a letter written by the first American delegate on behalf of the delegation. The following resolution was thereupon unanimously adopted:

> The Second Peace Conference confirms the resolution adopted by the Conference of 1899 in regard to the limitation of military burdens; and in view of the fact that military burdens have considerably increased in nearly all countries since the said year, the Conference declares that it is highly desirable to see Governments take up again the serious study of that subject.

THE RECOMMENDATIONS OF THE CONFERENCE.

In addition to the conventions, declarations, and resolution, the Conference emitted five desires or *voeux*, the first of which is in the nature of a resolution. Of each of these in turn—

> The Conference recommends to the signatory Powers the adoption of the project hereunto annexed, of a convention for the establishment of a court of arbitral justice and its putting in effect as soon as an accord shall be reached upon the choice of the judges and the constitution of the court.

An analysis of this paragraph shows that the establishment of the court is not the expression of a mere wish or desire on the part of the Conference, but that it is a recommendation to the Powers to undertake the establishment of the court. In the next place, the project of convention annexed to the recommendation is not to be submitted as a plan or as a model, but for adoption as the organic act

of the court. Again, the convention annexed and made a part of the recommendation goes forth not only with the approval of the Conference but as a solemn act adopted by it. And, finally, accepting the convention as the organic act, the Conference recommends that the court be definitely and permanently established by the Powers as soon as they shall have agreed upon a method of appointing the judges, who, when appointed, thus constitute the court. It will be noted that the number of Powers necessary to establish the court is not stated, nor is the number of judges determined. It follows, therefore, that the Powers wishing to establish the court are free to adopt the project of convention, agree upon the method of choosing the judges, and establish the court at The Hague for the trial of cases submitted by the contracting Powers.

The establishment of the court of arbitral justice would not interfere with the court of arbitration instituted by the Conference of 1899, and continued by the Conference of 1907, for this latter is a temporary tribunal, erected for a particular purpose, to decide as arbiters a controversy submitted. The court of arbitral justice, on the contrary, is meant to be a permanent court, composed of judges acting under a sense of judicial responsibility, representing the various legal systems of the world, and capable of assuring the continuity of arbitral jurisprudence. (Art. 1.) The contracting Powers are free to appoint either a large or a small number of judges; but it is provided in article 3 that the judges so appointed shall hold office for a period of twelve years and that they shall be chosen from among persons enjoying the highest moral consideration who meet the requirements for admission in their respective countries to the high magistracy, or who shall be jurists of recognized competency in matters of international law. (Art. 2.)

From these provisions it is evident that the proposed institution is to be not merely in name but in fact a court of justice; that it is to be permanent in the sense that it does not need to be constituted for any and every case submitted to it. It is obvious that such a court, acting under a sense of judicial responsibility, would decide, as a court, according to international law and equity, a question submitted to it, and that the idea of compromise hitherto so inseparable from arbitration, would be a stranger to this institution. The court is said to be permanent in the sense that it holds, as courts do, certain specified terms for the trial of cases. For example, article 14 says:

> The Court assembles in session once a year. The session begins on the third Wednesday of June and lasts until the calendar shall have been exhausted.
>
> The Court does not assemble in session if the meeting is deemed unnecessary by the delegation. If, however, a Power is a party to a case actually pending before the court, the preliminary proceedings of which are completed or near completion, that Power has the right to demand that the session take place.
>
> The delegation may, in case of necessity, call an extraordinary session of the Court.

It was deemed inexpedient to have an empty court at The Hague, and it was felt that without a judicial committee capable of transacting the ordinary business that might be submitted permanency in the true sense of the word would be lacking, therefore it is provided by article 6 of the project that—

> The Court designates, every year, three judges who constitute a special delegation and three others who are to take their places in case of disability. They may be *reelected. The vote is cast* by blanket ballot. Those who obtain the larger number

of votes are considered to be elected. The delegation elects its own president, who, failing a majority, is drawn by lot.

A member of the delegation is barred from the exercise of his functions when the Power by which he was appointed and under whose jurisdiction he is is one of the parties to the case.

The members of the delegation bring to a conclusion the cases that may have been referred to therein, even though their term of office should have expired.

Taking the two articles together, it is apparent that the court as such is intended to be permanently in session at The Hague; that the judicial committee will attend to the smaller cases submitted, and that the full court will meet in ordinary or extraordinary session once a year or whenever the business before it would justify its assembling. The judges are intended to be permanent court officials and as such to receive stated salaries whether they are actively engaged at The Hague in the trial of cases or not. The compensation is small (six thousand florins), but the honor is great. If, however, a judge sits as a trial judge at The Hague, his expenses to and from The Hague are paid according to the rate allowed in the home country for the traveling expenses of a judge in service, and in addition the judge is to receive the further sum of one hundred florins a day during his official service in the examination or trial of cases.

The first article speaks of a court free and easy of access. It is easy of access because it is permanent and has stated terms. It is free because no fees are paid for entrance, and it is likewise free in this sense: That the salaries of the judges are not paid by the litigating parties, but proportionately by the contracting Powers. The jurisdiction of the court is very wide; for example, "the court of arbitral justice is competent to decide all cases which are submitted to it by virtue of a general stipulation of arbitration or by a special agreement" (art. 17); that is to say, if there be a general treaty of arbitration designating the court of arbitral justice, the court is competent, if the cause of action be presented, to assume jurisdiction and to decide the case. It may be that parties to a controversy may submit the finding of a commission of inquiry to the court in order to have the legal responsibility established in an appropriate case, or it may be that parties to an arbitration may wish to have the case examined when on appeal or *de novo* by the court of arbitral justice. In such a case, by virtue of the special agreement of the parties litigant, the court is invested with jurisdiction.

It was not thought advisable to clothe the judicial committee with the jurisdiction of the full court, lest there be two competing institutions. The judicial committee is, however, expected to be a serviceable body, and its jurisdiction is commensurate with its dignity. For example, article 18 provides:

The delegation (article 6) is competent—

1. To hear arbitration cases coming under the foregoing article, if the parties agree upon demanding the application of summary procedure as determined in Title IV, Ch. IV, of the Convention of July 29, 1899.

2. To institute an inquiry by virtue of and in conformity to Title III of the Convention of July 29, 1899, in so far as the delegation may have been charged with this duty by the litigants acting in common accord. With the assent of the parties and in derogation of article 7, section 1, members of the delegation who took part in the inquiry may sit as judges if the dispute comes for arbitration before either the court or the delegation itself.

The judicial committee, therefore, is competent to sit as the court of summary proceeding in cases where parties litigant agree to make

use of the summary proceeding of the revised convention. It is likewise competent to sit as a commission of inquiry; and as the commission of inquiry finds facts, there seems to be no reason why the members of the judicial committee may not sit as judges if the litigation is submitted to the full court or to the delegation.

Article 19 invests the judicial committee with the power to frame the special agreement—that is to say, the *compromis* provided for in article 52 of the convention for the peaceful adjustment of international differences, already mentioned—unless there be an agreement or stipulation to the contrary.

The procedure of the court has not been neglected, but finds an appropriate place in the project of convention.

The establishment of the Permanent Court was proposed by the American delegation, was accepted in principle and loyally supported by the delegations of Germany and Great Britain, and the project actually framed and recommended by the Conference is the joint work of the American, German, and British delegations. It should be said, however, that the project could not have been adopted without the loyal and unstinted support of France.

From this brief exposition it is evident that the foundations of a Permanent Court have been broadly and firmly laid; that the organization, jurisdiction, and procedure have been drafted and recommended in the form of a code which the Powers or any number of them may accept and, by agreeing upon the appointment of judges, call into being a court at once permanent and international. A little time, a little patience, and the great work is accomplished.

The nature and purpose of the second and third *vœux* of the Conference can not well be expressed in more precise and apt terms than those used by the military delegate in his report of the proceedings of the second commission. The following paragraphs, therefore, are taken from such report:

It has been seen that both the committee and the Conference finally rejected a proposition which had been prepared with a view to minimize the effects of war upon neutral commerce and in conformity with the tendencies of modern industry and trade, which demand for their development and maintenance the widest markets and which are in the highest degree sensitive to the disturbing effects of war.

The German proposition, by protecting stocks of goods in the hands of neutral agents in belligerent territory from seizure or requisition, was calculated to give to neutral undertakings the broadest immunity from belligerent interference by restricting the burdens and operations of war to the belligerent States and their subjects. But the proposition so conceived and submitted was dismissed with the following expression of desire, which may be accepted as showing the importance which is attached to the development of modern industry and commerce by a majority of the Governments of the civilized world:

The Conference expresses the hope—

I. That in case of war the competent authorities, civil and military, should make it their special duty to assure and protect the commercial and industrial relations between the belligerent Powers and neutral States.

II. That the high (signatory) Powers should seek to establish in agreements with each other uniform contractural undertakings determining, in respect to military burdens, the relations of each State in respect to the strangers established in its territory.

The fourth *vœu* of the Conference is as follows:

4°. The Conference utters the wish that the elaboration of regulations relative to laws and customs of maritime warfare may figure in the programme of the next Conference, and that in any case the Powers apply, as far as possible, to maritime warfare the principles of the convention relative to the laws and customs of war on land.

Its adoption was due to the inability of the Conference to codify the law of maritime warfare as the Conference of 1899 had codified the laws and customs of war on land. The reasons for this failure need not be set forth, because the "desire" of the Conference is that the regulation of the laws and customs of maritime warfare be included in the programme of the Third Conference. The concluding portion of the desire is in the nature of a recommendation, namely, that the Powers apply as far as possible to naval warfare the principles of the laws and customs of warfare on land. It is likewise unnecessary to discuss this phrase, as it is not binding upon any Power so to do, and the measure of the application naturally depends upon the judgment of each of the Powers.

The final desire of the Conference is in the nature of a recommendation and is as follows:

Lastly, the Conference recommends to the Powers the holding of a third Peace Conference which might take place within a period similar to that which has elapsed since the preceding Conference on a date to be set by joint agreement among the Powers, and it draws their attention to the necessity of preparing the labors of that Third Conference sufficiently in advance to have its deliberations follow their course with the requisite authority and speed.

In order to achieve that object the Conference thinks it would be very desirable that a preparatory committee be charged by the Governments about two years before the probable date of the meeting, with the duty of collecting the various propositions to be brought before the Conference, to seek out the matters susceptible of an early international settlement, and to prepare a programme which the Governments should determine upon early enough to permit of its being thoroughly examined in each country. The committee should further be charged with the duty of proposing a mode of organization and procedure for the Conference itself.

The desire of the friends of progress is to have The Hague Conference a permanent institution, which meets at certain regular periods, automatically if possible, and beyond the control of any one Power. The American delegation was instructed to secure, if possible, this result, and through the efforts of the American delegation this result was reached in large measure. It is difficult, if not impossible, for one legislative body to bind its successor. It is doubly difficult for a quasi-legislative or diplomatic assembly to bind a succeeding assembly. It was therefore thought advisable not to attempt to fix the date absolutely, but to recommend that a Third Conference meet within or at about the period which has elapsed between the calling of the First and the assembling of the Second Conference, leaving the exact date to be fixed by the Powers.

Experience has shown that much time is lost not merely in organizing a conference, but in preparing and presenting the various projects. It is desirable that the projects be prepared in advance so that they may be presented, printed, and distributed at the opening of the session. This the Conference recommended. But to prepare the various propositions to be submitted to the Conference it is necessary to determine in advance, at least tentatively, the programme. The Conference therefore recommended that some two years before the probable date of the Conference a preparatory committee be charged by the various Governments to collect propositions, to ascertain the matters susceptible of international regulation, and to prepare the programme sufficiently in advance of the meeting that it may be seriously and maturely considered by each Government intending to take part.

The wisdom of these provisions is so apparent that any justification of them seems unnecessary. The last clause, however, can not be passed in silence, as its importance is fundamental; for, in simple terms, it means that the Conference is not to be organized or the method of procedure determined by any single Power. In other words, the Conference, it would seem, is to be given over to itself. The committee of the Powers is charged with the duty of proposing a mode of organization and procedure for the Conference, and it can not be doubted that the committee, consisting of leading and representative Powers, will propose a mode of organization and procedure which will permit the Conference to organize itself and conduct its proceedings without requiring the guidance and direction of any particular Power. Its officers may be elected by the Conference, rather than appointed, and if so elected or selected by the Conference it is safe to assume that they will be not only in harmony with its purposes, but in full sympathy with the spirit of the Conference. In any case the recommendation is of the greatest importance, because it shows a unanimous desire on the part of the Powers present for the calling of a Third Conference, and it indicates in no uncertain terms that the Conference in becoming in the largest sense international is not to be under the control or predominance of any one nation.

Such is, in brief, the work of the Second International Peace Conference. It is believed that the various measures adopted by it and recommended to the favorable consideration of the Powers will meet with general approval. It is hoped that the reasons set forth, briefly, in the present report may justify the delegates in signing the various measures and that their action as a whole may meet with the approval of the Secretary of State.

We have the honor to be, sir, your obedient servants,

JOSEPH H. CHOATE, *Chairman.*
CHANDLER HALE, *Secretary.*

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

THE CONVENTIONS AND DECLARATION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM THE 15TH OF JUNE TO THE 15TH OF OCTOBER, 1907.

To the Senate:

I transmit, with a view to receiving the advice and consent of the Senate to ratification, the conventions and declaration signed by the delegates of the United States to the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, together with a report by the Secretary of State and other accompanying papers.

The attention of the Senate is invited to the recommendations made by the Secretary of State, in which I concur.

THEODORE ROOSEVELT.

THE WHITE HOUSE,
February 27, 1908.

The PRESIDENT:

I submit for your consideration and for transmission to the Senate, should you deem it proper to do so, with a view to obtaining the advice and consent of that body to ratification, the following conventions and declaration signed by the delegates of the United States to the Second International Peace Conference held at The Hague from the 15th of June to the 18th of October, 1907:

Convention for the Pacific Settlement of International Disputes.

Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts.

Convention relative to the Opening of Hostilities.

Convention respecting the Laws and Customs of War on Land.

Convention respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land.

Convention relative to the Laying of Automatic Submarine Contact Mines.

Convention respecting Bombardment by Naval Forces in Time of War.

Convention for the Adaptation to Naval War of the Principles of the Geneva Convention.

Convention relative to certain Restrictions with regard to the Exercise of the Right of Capture in Naval War.

Convention relative to the Creation of an International Prize Court.

Declaration prohibiting the discharge of Projectiles and Explosives from Balloons.

I recommend that as to the convention for the peaceful adjustment of international differences, the ratification be subject to the following declaration:

In approving the convention for the Pacific Settlement of International Disputes, the United States exercises the option contained in article 53 of said Convention, to exclude the formulation of the *compromis* by the Permanent Court, and hereby expressly excludes from the competence of the Permanent Court the power to frame the *compromis* required by general or special treaties of arbitration concluded or hereafter to be concluded by the United States, and further expressly declares that the *compromis* required by any treaty of arbitration to which the United States may be a party shall be settled only by agreement between the contracting parties, unless such treaty shall expressly provide otherwise.

I submit also a convention concerning the rights and duties of neutral powers in naval war, voted for by a majority of the delegates, but which the American delegates at the Conference refrained from signing and reserved for further consideration. Upon careful consideration of this Convention, I recommend that the United States become a party thereto by formal adherence, reserving, however, and excluding from its assent the second paragraph of Article III, which is in the following words:

If the prize is not in the jurisdiction of the neutral power, the captor government, on the demand of that power, must liberate the prize with its officers and crew.

And reserving also and excluding from its assent Article XXIII, which is in the following words:

A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestrated pending the decision of a prize court. It may have the prize taken to another of its ports.

If the prize is convoyed by a war ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

I transmit also as relevant and material to the consideration of these Conventions the following documents:

1. The Final Act of the Conference.
2. The instructions to the American delegates, including the 1899 instructions.
3. The report of the American delegates of the proceedings of the Conference and their participation therein.
4. Copies of the two Conventions signed by other delegates, but not signed by the American delegates, adherence to which is still open to the United States, but adherence to which is not now recommended.

Let me go beyond the limits of the customary formal letter of transmittal and say that I think the work of the Second Hague Conference, which is mainly embodied in these Conventions, presents the greatest advance ever made at any single time toward the reasonable and peaceful regulation of international conduct, unless it be the advance made at The Hague Conference of 1899.

The most valuable result of the Conference of 1899 was that it made the work of the Conference of 1907 possible. The achievements of the two Conferences justify the belief that the world has entered upon an orderly process through which, step by step, in successive Conferences, each taking the work of its predecessor as its point of departure, there may be continual progress toward making the practice of civilized nations conform to their peaceful professions.

Respectfully submitted.

ELIHU ROOT.

DEPARTMENT OF STATE,
Washington, February 26, 1908.

[Executive F, Sixtieth Congress, first session—Confidential.]

SETTLEMENT OF INTERNATIONAL DISPUTES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

APRIL 2, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of

Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Animated by the sincere desire to work for the maintenance of general peace;

Resolved to promote by all the efforts in their power the friendly settlement of international disputes;

Recognizing the solidarity uniting the members of the society of civilized nations;

Desirous of extending the empire of law and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a Tribunal of Arbitration accessible to all, in the midst of independent Powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of the procedure of arbitration;

Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to record in an International Agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

Being desirous, with this object, of insuring the better working in practice of Commissions of Inquiry and Tribunals of Arbitration, and of facilitating recourse to arbitration in cases which allow of a summary procedure;

Have deemed it necessary to revise in certain particulars and to complete the work of the First Peace Conference for the pacific settlement of international disputes;

The High Contracting Parties have resolved to conclude a new Convention for this purpose, and have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act, Supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following:—

PART I.—*The Maintenance of General Peace.*

ARTICLE I.

With a view to obviating as far as possible recourse to force in the relations between States, the Contracting Powers agree to use their best efforts to ensure the pacific settlement of international differences.

PART II.—*Good Offices and Mediation.*

ARTICLE II.

In case of serious disagreement or dispute, before an appeal to arms, the Contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

ARTICLE III.

Independently of this recourse, the Contracting Powers deem it expedient and desirable that one or more Powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers strangers to the dispute have the right to offer good offices or mediation even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

ARTICLE IV.

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

ARTICLE V.

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

ARTICLE VI.

Good offices and mediation undertaken either at the request of the parties in dispute or on the initiative of Powers strangers to the dispute have exclusively the character of advice, and never have binding force.

ARTICLE VII.

The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted in the absence of an agreement to the contrary.

ARTICLE VIII.

The Contracting Powers are agreed in recommending the application, when circumstances allow, of special mediation in in the following form:—

In case of a serious difference endangering peace, the States at variance choose respectively a Power, to which they intrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the States in dispute cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, which must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

PART III.—*International Commissions of Inquiry.*

ARTICLE IX.

In disputes of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of fact, the Contracting Powers deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

ARTICLE X.

International Commissions of Inquiry are constituted by special agreement between the parties in dispute.

The Inquiry Convention defines the facts to be examined; it determines the mode and time in which the Commission is to be formed and the extent of the powers of the Commissioners.

It also determines, if there is need, where the Commission is to sit, and whether it may remove to another place, the language the Commission shall use and the languages the use of which shall be authorized before it, as well as the date on which each party must deposit its statement of facts, and, generally speaking, all the conditions upon which the parties have agreed.

If the parties consider it necessary to appoint Assessors, the Convention of Inquiry shall determine the mode of their selection and the extent of their powers.

ARTICLE XI.

If the Inquiry Convention has not determined where the Commission is to sit, it will sit at The Hague.

The place of meeting, once fixed, cannot be altered by the Commission except with the assent of the parties.

If the Inquiry Convention has not determined what languages are to be employed, the question shall be decided by the Commission.

ARTICLE XII.

Unless an undertaking is made to the contrary, Commissions of Inquiry shall be formed in the manner determined by Articles XLV and LVII of the present Convention.

ARTICLE XIII.

Should one of the Commissioners or one of the Assessors, should there be any, either die, or resign, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

ARTICLE XIV.

The parties are entitled to appoint special agents to attend the Commission of Inquiry, whose duty it is to represent them and to act as intermediaries between them and the Commission.

They are further authorized to engage counsel or advocates, appointed by themselves, to state their case and uphold their interests before the Commission.

ARTICLE XV.

The International Bureau of the Permanent Court of Arbitration acts as registry for the Commissions which sit at The

Hague, and shall place its offices and staff at the disposal of the Contracting Powers for the use of the Commission of Inquiry.

ARTICLE XVI.

If the Commission meets elsewhere than at The Hague, it appoints a Secretary-General, whose office serves as registry.

It is the function of the registry, under the control of the President, to make the necessary arrangements for the sittings of the Commission, the preparation of the Minutes, and, while the inquiry lasts, for the charge of the archives, which shall subsequently be transferred to the International Bureau at The Hague.

ARTICLE XVII.

In order to facilitate the constitution and working of Commissions of Inquiry, the Contracting Powers recommend the following rules, which shall be applicable to the inquiry procedure in so far as the parties do not adopt other rules.

ARTICLE XVIII.

The Commission shall settle the details of the procedure not covered by the special Inquiry Convention or the present Convention, and shall arrange all the formalties required for dealing with the evidence.

ARTICLE XIX.

On the inquiry both sides must be heard.

At the dates fixed, each party communicates to the Commission and to the other party the statements of facts, if any, and, in all cases, the instruments, papers, and documents which it considers useful for ascertaining the truth, as well as the list of witnesses and experts whose evidence it wishes to be heard.

ARTICLE XX.

The Commission is entitled, with the assent of the Powers, to move temporarily to any place where it considers it may be useful to have recourse to this means of inquiry or to send one or more of its members. Permission must be obtained from the State on whose territory it is proposed to hold the inquiry.

ARTICLE XXI.

Every investigation, and every examination of a locality, must be made in the presence of the agents and counsel of the parties or after they have been duly summoned.

ARTICLE XXII.

The Commission is entitled to ask from either party for such explanations and information as it considers necessary.

ARTICLE XXIII.

The parties undertake to supply the Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to become completely acquainted with, and to accurately understand, the facts in question.

They undertake to make use of the means at their disposal, under their municipal law, to insure the appearance of the witnesses or experts who are in their territory and have been summoned before the Commission.

If the witnesses or experts are unable to appear before the Commission, the parties will arrange for their evidence to be taken before the qualified officials of their own country.

ARTICLE XXIV.

For all notices to be served by the Commission in the territory of a third Contracting Power, the Commission shall apply direct to the Government of the said Power. The same rule applies in the case of steps being taken on the spot to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers they are calculated to impair its sovereign rights or its safety.

The Commission will equally be always entitled to act through the Power on whose territory it sits.

ARTICLE XXV.

The witnesses and experts are summoned on the request of of the parties or by the Commission of its own motion, and, in every case, through the Government of the State in whose territory they are.

The witnesses are heard in succession and separately, in the presence of the agents and counsel, and in the order fixed by the Commission.

ARTICLE XXVI.

The examination of witnesses is conducted by the President.

The members of the Commission may however put to each witness questions which they consider likely to throw light on and complete his evidence, or get information on any point concerning the witness within the limits of what is necessary in order to get at the truth.

The agents and counsel of the parties may not interrupt the witness when he is making his statement, nor put any direct question to him, but they may ask the President to put such additional questions to the witness as they think expedient.

ARTICLE XXVII.

The witness must give his evidence without being allowed to read any written draft. He may, however, be permitted by the President to consult notes or documents if the nature of the facts referred to necessitates their employment.

ARTICLE XXVIII.

A Minute of the evidence of the witness is drawn up forthwith and read to the witness. The latter may make such alterations and additions as he thinks necessary, which will be recorded at the end of his statement.

When the whole of his statement has been read to the witness, he is asked to sign it.

ARTICLE XXIX.

The agents are authorized, in the course of or at the close of the inquiry, to present in writing to the Commission and to the other party such statements, requisitions, or summaries of the facts as they consider useful for ascertaining the truth.

ARTICLE XXX.

The Commission considers its decisions in private and the proceedings are secret.

All questions are decided by a majority of the members of the Commission.

If a member declines to vote, the fact must be recorded in the Minutes.

ARTICLE XXXI.

The sittings of the Commission are not public, nor the Minutes and documents connected with the inquiry published except in virtue of a decision of the Commission taken with the consent of the parties.

ARTICLE XXXII.

After the parties have presented all the explanations and evidence, and the witnesses have all been heard, the President declares the inquiry terminated, and the Commission adjourns to deliberate and to draw up its Report.

ARTICLE XXXIII.

The Report is signed by all the members of the Commission.

If one of the members refuses to sign, the fact is mentioned; but the validity of the Report is not affected.

ARTICLE XXXIV.

The Report of the Commission is read at a public sitting, the agents and counsel of the parties being present or duly summoned.

A copy of the Report is given to each party.

ARTICLE XXXV.

The Report of the Commission is limited to a statement of facts, and has in no way the character of an Award. It leaves to the parties entire freedom as to the effect to be given to the statement.

ARTICLE XXXVI.

Each party pays its own expenses and an equal share of the expenses incurred by the Commission.

PART IV.—*International Arbitration.*

CHAPTER I.—*The System of Arbitration.*

ARTICLE XXXVII.

International arbitration has for its object the settlement of disputes between States by Judges of their own choice and on the basis of respect for law.

Recourse to arbitration implies an engagement to submit in good faith to the Award.

ARTICLE XXXVIII.

In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognized by the Contracting Powers as the most

effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle.

Consequently, it would be desirable that, in disputes about the above-mentioned questions, the Contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit.

ARTICLE XXXIX.

The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

ARTICLE XL.

Independently of general or private Treaties expressly stipulating recourse to arbitration as obligatory on the Contracting Powers, the said Powers reserve to themselves the right of concluding new Agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II.—*The Permanent Court of Arbitration.*

ARTICLE XLI.

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the Contracting Powers undertake to maintain the Permanent Court of Arbitration, as established by the First Peace Conference, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

ARTICLE XLII.

The Permanent Court is competent for all arbitration cases, unless the parties agree to institute a special Tribunal.

ARTICLE XLIII.

The Permanent Court sits at The Hague.

An International Bureau serves as registry for the Court. It is the channel for communications relative to the meetings of the Court; it has charge of the archives and conducts all the administrative business.

The Contracting Powers undertake to communicate to the Bureau, as soon as possible, a certified copy of any conditions

of arbitration arrived at between them and of any Award concerning them delivered by a special Tribunal.

They likewise undertake to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the Awards given by the Court.

ARTICLE XLIV.

Each Contracting Power selects four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of Arbitrator.

The persons thus selected are inscribed, as members of the Court, in a list which shall be notified to all the Contracting Powers by the Bureau.

Any alteration in the list of Arbitrators is brought by the Bureau to the knowledge of the Contracting Powers.

Two or more Powers may agree on the selection in common of one or more members.

The same person can be selected by different Powers. The members of the Court are appointed for a term of six years. These appointments are renewable.

Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years.

ARTICLE XLV.

When the Contracting Powers wish to have recourse to the Permanent Court for the settlement of a difference which has arisen between them, the Arbitrators called upon to form the Tribunal with jurisdiction to decide this difference must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:—

Each party appoints two Arbitrators, of whom one only can be its national or chosen from among the persons selected by it as members of the Permanent Court. These Arbitrators together choose an Umpire.

If the votes are equally divided, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

If, within two months' time, these two Powers cannot come to an agreement, each of them presents two candidates taken from the list of members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be Umpire.

Article XLVI.

The Tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court, the text of their "Compromis,"* and the names of the Arbitrators.

The Bureau communicates without delay to each Arbitrator the "Compromis," and the names of the other members of the Tribunal.

The Tribunal assembles at the date fixed by the parties. The Bureau makes the necessary arrangements for the meeting.

The members of the Tribunal, in the exercise of their duties and out of their own country, enjoy diplomatic privileges and immunities.

Article XLVII.

The Bureau is authorized to place its offices and staff at the disposal of the Contracting Powers for the use of any special Board of Arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-Contracting Powers or between Contracting Powers and non-Contracting Powers, if the parties are agreed on recourse to this Tribunal.

Article XLVIII.

The Contracting Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

* The preliminary Agreement in an international arbitration defining the point at issue and arranging the procedure to be followed.

Consequently, they declare that the fact of reminding the parties at variance of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

In case of dispute between two Powers, one of them can always address to the International Bureau a note containing a declaration that it would be ready to submit the dispute to arbitration.

The Bureau must at once inform the other Power of the declaration.

Article XLIX.

The Permanent Administrative Council, composed of the Diplomatic Representatives of the Contracting Powers accredited to The Hague and of the Netherland Minister for Foreign Affairs, who will act as President, is charged with the direction and control of the International Bureau.

The Council settles its rules of procedure and all other necessary regulations.

It decides all questions of administration which may arise with regard to the operations of the Court.

It has entire control over the appointment, suspension, or dismissal of the officials and employés of the Bureau.

It fixes the payments and salaries, and controls the general expenditure.

At meetings duly summoned the presence of nine members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the Contracting Powers without delay the regulations adopted by it. It furnishes them with an annual Report on the labours of the Court, the working of the administration, and the expenditure. The Report likewise contains a résumé of what is important in the documents communicated to the Bureau by the Powers in virtue of Article XLIII, paragraphs 3 and 4.

Article L.

The expenses of the Bureau shall be borne by the Contracting Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

The expenses to be charged to the adhering Powers shall be reckoned from the date on which their adhesion comes into force.

CHAPTER III.—*Arbitration Procedure.*

ARTICLE LI.

With a view to encouraging the development of arbitration, the Contracting Powers have agreed on the following rules, which are applicable to arbitration procedure, unless other rules have been agreed on by the parties.

ARTICLE LII.

The Powers which have recourse to arbitration sign a "Compromis," in which the subject of the dispute is clearly defined, the time allowed for appointing Arbitrators, the form, order, and time in which the communication referred to in Article LXIII must be made, and the amount of the sum which each party must deposit in advance to defray the expenses.

The "Compromis" likewise defines, if there is occasion, the manner of appointing Arbitrators, any special powers which may eventually belong to the Tribunal, where it shall meet, the language it shall use, and the languages the employment of which shall be authorized before it, and, generally speaking, all the conditions on which the parties are agreed.

ARTICLE LIII.

The Permanent Court is competent to settle the "Compromis," if the parties are agreed to have recourse to it for the purpose.

It is similarly competent, even if the request is only made by one of the parties, when all attempts to reach an understanding though the diplomatic channel have failed, in the case of:—

1. A dispute covered by a general Treaty of Arbitration concluded or renewed after the present Convention has come into force, and providing for a "Compromis" in all disputes and not either explicitly or implicitly excluding the settlement of the "Compromis" from the competence of the Court. Recourse cannot, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration, unless the Treaty of Arbitration confers upon the Arbitration Tribunal the power of deciding this preliminary question.

2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the "Compromis" should be settled in some other way.

ARTICLE LIV.

In the cases contemplated in the preceding Article, the "Compromis" shall be settled by a Commission consisting of five members selected in the manner arranged for in Article XLV, paragraphs 3 to 6.

The fifth member is President of the Commission *ex officio.*

ARTICLE LV.

The duties of Abritrator may be conferred on one Arbitrator alone or on several Arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present Convention

Failing the constitution of the Tribunal by direct argeement between the parties, the course referred to in Article XLV, paragraphs 3 to 6, is followed.

ARTICLE LVI.

When a Sovereign or the Chief of a State is chosen as Arbitrator, the arbitration procedure is settled by him.

ARTICLE LVII.

The Umpire is President of the Tribunal *ex officio.*

When the Tribunal does not include an Umpire, it appoints its own President.

ARTICLE LVIII.

When the "Compromis" is settled by a Commission, as contemplated in Article LIV, and in the absence of an agreement to the contrary, the Commission itself shall form the Arbitration Tribunal.

ARTICLE LIX.

Should one of the Arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

ARTICLE LX.

The Tribunal sits at The Hague, unless some other place is selected by the parties.

The Tribunal can only sit in the territory of a third Power with the latter's consent.

The place of meeting once fixed cannot be altered by the Tribunal, except with the consent of the parties.

ARTICLE LXI.

If the question as to what languages are to be used has not been settled by the "Compromis," it shall be decided by the Tribunal.

ARTICLE LXII.

The parties are entitled to appoint special agents to attend the Tribunal to act as intermediaries between themselves and the Tribunal.

They are further authorized to retain for the defence of their rights and interests before the Tribunal counsel or advocates appointed by themselves for this purpose.

The members of the Permanent Court may not act as agents, counsel, or advocates except on behalf of the Power which appointed them members of the Court.

ARTICLE LXIII.

As a general rule, arbitration procedure comprises two distinct phases: pleadings and oral discussions.

The pleadings consist in the communication by the respective agents to the members of the Tribunal and the opposite party of cases, counter-cases, and, if necessary, of replies; the parties annex thereto all papers and documents called for in the case. This communication shall be made either directly or through the intermediary of the International Bureau, in the order and within the time fixed by the "Compromis."

The time fixed by the "Compromis" may be extended by mutual agreement by the parties, or by the Tribunal when the latter considers it necessary for the purpose of reaching a just decision.

The discussions consist in the oral development before the Tribunal of the arguments of the parties.

ARTICLE LXIV.

A certified copy of every document produced by one party must be communicated to the other party.

ARTICLE LXV.

Unless special circumstances arise, the Tribunal does not meet until the pleadings are closed.

ARTICLE LXVI.

The discussions are under the control of the President.

They are only public if it be so decided by the Tribunal, with the assent of the parties.

They are recorded in minutes drawn up by the Secretaries appointed by the President. These minutes are signed by the President and by one of the Secretaries and alone have an authentic character.

ARTICLE LXVII.

After the close of the pleadings, the Tribunal is entitled to refuse discussion of all new papers or documents which one of the parties may wish to submit to it without the consent of the other party.

ARTICLE LXVIII.

The Tribunal is free to take into consideration new papers or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the Tribunal has the right to require the production of these papers or documents, but is obliged to make them known to the opposite party.

ARTICLE LXIX.

The Tribunal can, besides, require from the agents of the parties the production of all papers, and can demand all necessary explanations. In case of refusal the Tribunal takes note of it.

ARTICLE LXX.

The agents and the counsel of the parties are authorized to present orally to the Tribunal all the arguments they may consider expedient in defence of their case.

ARTICLE LXXI.

They are entitled to raise objections and points. The decisions of the Tribunal on these points are final and cannot form the subject of any subsequent discussion.

ARTICLE LXXII.

The members of the Tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by members of the Tribunal in the course of the discussions, can be regarded as an expression of opinion by the Tribunal in general or by its members in particular.

ARTICLE LXXIII.

The Tribunal is authorized to declare its competence in interpreting the "Compromis," as well as the other Treaties which may be invoked, and in applying the principles of law.

ARTICLE LXXIV.

The Tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

ARTICLE LXXV.

The parties undertake to supply the Tribunal, as fully as they consider possible, with all the information required for deciding the case.

ARTICLE LXXVI.

For all notices which the Tribunal has to serve in the territory of a third Contracting Power, the Tribunal shall apply direct to the Government of that Power. The same rule applies in the case of steps being taken to procure evidence on the spot.

The requests for this purpose are to be executed as far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers them calculated to impair its own sovereign rights or its safety.

The Court will equally be always entitled to act through the Power on whose territory it sits.

ARTICLE LXXVII.

When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case the President shall declare the discussion closed.

ARTICLE LXXVIII.

The Tribunal considers its decisions in private and the proceedings remain secret.

All questions are decided by a majority of the members of the Tribunal.

ARTICLE LXXIX.

The Award must give the reasons on which it is based. It contains the names of the Arbitrators; it is signed by the President and Registrar or by the Secretary acting as Registrar.

ARTICLE LXXX.

The Award is read out in public sitting, the agents and counsel of the parties being present or duly summoned to attend.

ARTICLE LXXXI.

The Award, duly pronounced and notified to the agents of the parties, settles the dispute definitively and without appeal.

ARTICLE LXXXII.

Any dispute arising between the parties as to the interpretation and execution of the Award shall, in the absence of an Agreement to the contrary, be submitted to the Tribunal which pronounced it.

ARTICLE LXXXIII.

The parties can reserve in the "Compromis" the right to demand the revision of the Award.

In this case and unless there be an Agreement to the contrary, the demand must be addressed to the Tribunal which pronounced the Award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence upon the Award and which was unknown to the Tribunal and to the party which demanded the revision at the time the discussion was closed.

Proceedings for revision can only be instituted by a decision of the Tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The "Compromis" fixes the period within which the demand for revision must be made.

ARTICLE LXXXIV.

The Award is not binding except on the parties in dispute.

When it concerns the interpretation of a Convention to which Powers other than those in dispute are parties, they shall inform all the Signatory Powers in good time. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation contained in the Award is equally binding on them.

ARTICLE LXXXV.

Each party pays its own expenses and an equal share of the expenses of the Tribunal.

CHAPTER IV.—*Arbitration by Summary Procedure.*

ARTICLE LXXXVI.

With a view to facilitating the working of the system of arbitration in disputes admitting of a summary procedure, the Contracting Powers adopt the following rules, which shall be observed in the absence of other arrangements and subject to the reservation that the provisions of Chapter III apply so far as may be.

ARTICLE LXXXVII.

Each of the parties in dispute appoints an Arbitrator. The two Arbitrators thus selected choose an Umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the Umpire is determined by lot.

The Umpire presides over the Tribunal, which gives its decisions by a majority of votes.

ARTICLE LXXXVIII.

In the absence of any previous agreement the Tribunal, as soon as it is formed, settles the time within which the two parties must submit their respective cases to it.

ARTICLE LXXXIX.

Each party is represented before the Tribunal by an agent, who serves as intermediary between the Tribunal and the Government who appointed him.

ARTICLE XC.

The proceedings are conducted exclusively in writing. Each party, however, is entitled to ask that witnesses and experts should be called. The Tribunal has, for its part, the right to demand oral explanations from the agents of the two parties, as well as from the experts and witnesses whose appearance in Court it may consider useful.

PART V.—*Final Provisions.*

ARTICLE XCI.

The present Convention, duly ratified, shall replace, as between the Contracting Powers, the Convention for the Pacific Settlement of International Disputes of the 29th July, 1899.

ARTICLE XCII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to those Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform the Powers of the date on which it received the notification.

ARTICLE XCIII.

Non-Signatory Powers which have been invited to the Second Peace Conference may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall immediately forward to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE XCIV.

The conditions on which the Powers which have not been invited to the Second Peace Conference may adhere to the present Convention shall form the subject of a subsequent Agreement between the Contracting Powers.

ARTICLE XCV.

The present Convention shall take effect, in the case of the Powers which were not a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE XCVI.

In the event of one of the Contracting Parties wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE XCVII.

A register kept by the Netherland Minister for Foreign Affairs shall give the date of the deposit of ratifications effected in virtue of Article XCII, paragraphs 3 and 4, as well as the date

on which the notifications of adhesion (Article XCIII, paragraph 2) or of denunciation (Article XCVI, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Contracting Powers.

RESOLUTION OF RATIFICATION OF THE CONVENTION FOR THE SETTLEMENT OF INTERNATIONAL DISPUTES, SIGNED AT THE HAGUE, 1907. (Ex. F, 60th, 1st.)

APRIL 2, 1908.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a convention signed by the delegates of the United States to the Second International Peace Conference, held at The Hague from June sixteenth to October eighteenth, nineteen hundred and seven, for the pacific settlement of international disputes, subject to the declaration made by the delegates of the United States before signing said convention, namely:

"Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions."

Resolved further, as a part of this act of ratification, That the United States approves this convention with the understanding that recourse to the permanent court for the settlement of differences can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute; and the United States now exercises the option contained in article fifty-three of said convention, to exclude the formulation of the "compromis" by the permanent court, and hereby excludes from the competence of the permanent court the power to frame the "compromis" required by general or special treaties of arbitration concluded or hereafter to be concluded by the United States, and further expressly declares that the "compromis" required by any treaty of arbitration to which the United States may be a party shall be settled only by agreement between the contracting parties, unless such treaty shall expressly provide otherwise.

[Executive G, Sixtieth Congress, first session—Confidential.]

RECOVERY OF CONTRACT DEBTS.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RESPECTING THE LIMITATION OF THE EMPLOYMENT OF FORCE FOR THE RECOVERY OF CONTRACT DEBTS.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

APRIL 7, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway;

the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Being desirous of avoiding between nations armed conflicts of a pecuniary origin arising from contract debts which are claimed from the Government of one country by the Government of another country as due to its nationals, have resolved to conclude a Convention to this effect, and have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:—

ARTICLE I.

The Contracting Powers agree not to have recourse to armed force for the recovery of contract debts claimed from the Government of one country by the Government of another country as being due to its nationals.

This undertaking is, however, not applicable when the debtor State refuses or neglects to reply to an offer of arbitration, or, after accepting the offer, prevents any "Compromis" from being agreed on, or, after the arbitration, fails to submit to the award.

ARTICLE II.

It is further agreed that the arbitration mentioned in paragraph 2 of the foregoing Article shall be subject to the procedure laid down in Part IV, Chapter III, of The Hague Convention for the Pacific Settlement of International Disputes. The award shall determine, except where otherwise agreed between the parties, the validity of the claim, the amount of the debt, and the time and mode of payment.

ARTICLE III.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers taking part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be sent immediately by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE IV.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall forward immediately to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification, as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE V.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE VI.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers, informing them at the same time of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE VII.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article III, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article IV, paragraph 2) or of denunciation (Article VI, paragraph 1) were received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent to the Contracting Powers through the diplomatic channel.

RESOLUTION OF RATIFICATION OF A CONVENTION RESPECTING THE LIMITATION OF THE EMPLOYMENT OF FORCE FOR THE RECOVERY OF CONTRACT DEBTS, SIGNED AT THE HAGUE, 1907.

Resolved (two-thirds of the Senators present concurring therein), that the Senate advise and consent to the ratification of a convention signed by the delegates of the United States to the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, respecting the limitation of the employment of force for the recovery of contract debts.

Resolved further, as a part of this act of ratification, that the United States approves this convention with the understanding that recourse to the permanent court for the settlement of the differences referred to in said convention can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute.

[Executive H, Sixtieth Congress, first session.—Confidential.]

OPENING OF HOSTILITIES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE OPENING OF HOSTILITIES.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamä; the President of the Republic of Paraguay; Her

Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Considering that it is important, in order to ensure the maintenance of pacific relations, that hostilities should not commence without previous warning.

That it is equally important that the existence of a state of war should be notified without delay to neutral Powers;

Being desirous of concluding a Convention to this effect, have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:—

ARTICLE I.

The Contracting Powers recognize that hostilities between themselves must not commence without previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war.

ARTICLE II.

The existence of a state of war must be notified to the neutral Powers without delay, and shall not take effect in regard to them until after the receipt of a notification, which may, however, be given by telegraph. Neutral Powers, nevertheless, cannot rely on the absence of notification if it is clearly established that they were in fact aware of the existence of a state of war.

ARTICLE III.

Article I of the present Convention shall take effect in case of war between two or more of the Contracting Powers.

Article II is binding as between a belligerent Power which is a party to the Convention and neutral Powers which are also parties to the Convention.

ARTICLE IV.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government through the diplomatic channel to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform them of the date on which it received the notification.

ARTICLE V.

Non-Signatory Powers may adhere to the present Convention.

The Power which wishes to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall at once forward to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification.

ARTICLE VI.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE VII.

In the event of one of the High Contracting Parties wishing to denounce the present Convention, the denunciation shall be noti-

fied in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE VIII.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article IV, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article V, paragraph 2) or of denunciation (Article VII, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Executive I, Sixtieth Congress, first session—Confidential.]

LAWS AND CUSTOMS OF WAR ON LAND.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial

Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Seeing that, while seeking means to preserve peace and prevent armed conflicts between nations, it is likewise necessary to bear in mind the case where the appeal to arms has been brought about by events which their care was unable to avert;

Animated by the desire to serve, even in this extreme case, the interests of humanity and the ever progressive needs of civilization;

Thinking it important, with this object, to revise the general laws and customs of war, either with a view to defining them with greater precision or to confining them within such limits as would mitigate their severity as far as possible;

Have deemed it necessary to complete and explain in certain particulars the work of the First Peace Conference, which, following on the Brussels Conference of 1874, and inspired by the ideas dictated by a wise and generous forethought, adopted provisions intended to define and govern the usages of war on land.

According to the views of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war, as far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants.

It has not, however, been found possible at present to concert Regulations covering all the circumstances which arise in practice;

On the other hand, the High Contracting Parties clearly do not intend that unforeseen cases should, in the absence of a written undertaking, be left to the arbitrary judgment of military commanders.

Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection *and the rule* of the principles of the law of nations, as they

result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.

They declare that it is in this sense especially that Articles I and II of the Regulations adopted must be understood.

The High Contracting Parties, wishing to conclude a fresh Convention to this effect, have appointed the following as their Plenipotentiaries:—

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following:—

ARTICLE I.

The Contracting Powers shall issue instructions to their armed land forces which shall be in conformity with the Regulations respecting the Laws and Customs of War on Land, annexed to the present Convention.

ARTICLE II.

The provisions contained in the Regulations referred to in Article I, as well as in the present Convention, do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE III.

A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

ARTICLE IV.

The present Convention, duly ratified, shall as between the Contracting Powers, be substituted for the Convention of the 29th July, 1899, respecting the Laws and Customs of War on Land.

The Convention of 1899 remains in force as between the Powers which signed it, and which do not also ratify the present Convention.

ARTICLE V.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be immediately sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph the said Government shall at the same time inform them of the date on which it received the notification.

ARTICLE VI.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE VII.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE VIII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE IX.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article V, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article VI, paragraph 2) or of denunciation (Article VIII, paragraph 1) were received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

ANNEX TO THE CONVENTION.

Regulations respecting the Laws and Customs of War on Land.

SECTION I.—ON BELLIGERENTS.

CHAPTER I.—*The Qualifications of Belligerents.*

ARTICLE I.

THE laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:—

1. To be commanded by a person responsible for his subordinates;

2. To have a fixed distinctive emblem recognizable at a distance;

3. To carry arms openly; and

4. To conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

ARTICLE II.

The inhabitants of a territory which has not been occupied, who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had time to organize themselves in accordance with Article I, shall be regarded as belligerents if they carry arms openly and if they respect the laws and customs of war.

ARTICLE III.

The armed forces of the belligerent parties may consist of combatants and noncombatants. In the case of capture by the enemy, both have a right to be treated as prisoners of war.

CHAPTER II.—*Prisoners of War.*

ARTICLE IV.

Prisoners of war are in the power of the hostile Government, but not of the individuals or corps who capture them.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers, remain their property.

ARTICLE V.

Prisoners of war may be interned in a town, fortress, camp, or other place, and bound not to go beyond certain fixed limits; but they cannot be confined except as an indispensable measure of safety and only while the circumstances which necessitate the measure continue to exist.

ARTICLE VI.

The State may utilize the labour of prisoners of war according to their rank and aptitude, officers excepted. The tasks shall not be excessive and shall have no connection with the operations of the war.

Prisoners may be authorized to work for the public service, for private persons, or on their own account.

Work done for the State is paid at the rates in force for work of a similar kind done by soldiers of the national army, or, if there are none in force, at a rate according to the work executed.

When the work is for other branches of the public service or for private persons the conditions are settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them on their release, after deducting the cost of their maintenance.

ARTICLE VII.

The Government into whose hands prisoners of war have fallen is charged with their maintenance.

In the absence of a special agreement between the belligerents, prisoners of war shall be treated as regards board, lodging, and clothing on the same footing as the troops of the Government who captured them.

ARTICLE VIII.

Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State in whose power they are. Any act of insubordination justifies the adoption towards them of such measures of severity as may be considered necessary.

Escaped prisoners who are retaken before being able to rejoin their own army or before leaving the territory occupied by the army which captured them are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment on account of the previous flight.

ARTICLE IX.

Every prisoner of war is bound to give, if he is questioned on the subject, his true name and rank, and if he infringes this rule, he is liable to have the advantages given to prisoners of his class curtailed.

ARTICLE X.

Prisoners of war may be set at liberty on parole if the laws of their country allow, and, in such cases, they are bound, on their personal honour, scrupulously to fulfil, both towards their own Government and the Government by whom they were made prisoners, the engagements they have contracted.

In such cases their own Government is bound neither to require of nor accept from them any service incompatible with the parole given.

ARTICLE XI.

A prisoner of war cannot be compelled to accept his liberty on parole; similarly the hostile Government is not obliged to accede to the request of the prisoner to be set at liberty on parole.

ARTICLE XII.

Prisoners of war liberated on parole and recaptured bearing arms against the Government to whom they had pledged their honour, or against the allies of that Government, forfeit their right to be treated as prisoners of war, and can be brought before the Courts.

ARTICLE XIII.

Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers and contractors, who fall into the enemy's hands and whom the latter thinks expedient to detain, are entitled to be treated as prisoners of war, provided they are in possession of a certificate from the military authorities of the army which they were accompanying.

ARTICLE XIV.

An inquiry office for prisoners of war is instituted on the commencement of hostilities in each of the belligerent States, and, when necessary, in neutral countries which have received belligerents in their territory. It is the function of this office to reply to all inquiries about the prisoners. It receives from the various services concerned full information respecting internments and transfers, releases on parole, exchanges, escapes, admissions into hospital, deaths, as well as other information necessary to enable it to make out and keep up to date an individual return for each prisoner of war. The office must state in this return the regimental number, name and surname, age, place of origin, rank, unit, wounds, date and place of capture, internment, wounding, and death, as well as any observations of a special character. The individual return shall be sent to the Government of the other belligerent after the conclusion of peace.

It is likewise the function of the inquiry office to receive and collect all objects of personal use, valuables, letters, &c., found on the field of battle or left by prisoners who have been

released on parole, or exchanged, or who have escaped, or died in hospitals or ambulances, and to forward them to those concerned.

ARTICLE XV.

Relief societies for prisoners of war, which are properly constituted in accordance with the laws of their country and with the object of serving as the channel for charitable effort shall receive from the belligerents, for themselves and their duly accredited agents every facility for the efficient performance of their humane task within the bounds imposed by military necessities and administrative regulations. Agents of these societies may be admitted to the places of internment for the purpose of distributing relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an undertaking in writing to comply with all measures of order and police which the latter may issue.

ARTICLE XVI.

Inquiry offices enjoy the privilege of free postage. Letters, money orders, and valuables, as well as parcels by post, intended for prisoners of war, or dispatched by them, shall be exempt from all postal duties in the countries of origin and destination, as well as in the countries they pass through.

Presents and relief in kind for prisoners of war shall be admitted free of all import or other duties, as well as of payments for carriage by the State railways.

ARTICLE XVII.

Officers taken prisoners shall receive the same rate of pay as officers of corresponding rank in the country where they are detained, the amount to be ultimately refunded by their own Government.

ARTICLE XVIII.

Prisoners of war shall enjoy complete liberty in the exercise of their religion, including attendance at the services of whatever Church they may belong to, on the sole condition that they comply with the measures of order and police issued by the military authorities.

ARTICLE XIX.

The wills of prisoners of war are received or drawn up in the same way as for soldiers of the national army.

The same rules shall be observed regarding death certificates as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

ARTICLE XX.

After the conclusion of peace, the repatriation of prisoners of war shall be carried out as quickly as possible.

CHAPTER III.—*The Sick and Wounded.*

ARTICLE XXI.

The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention.

SECTION II.—HOSTILITIES.

CHAPTER I.—*Means of Injuring the Enemy, Sieges, and Bombardments.*

ARTICLE XXII.

The right of belligerents to adopt means of injuring the enemy is not unlimited.

ARTICLE XXIII.

In addition to the prohibitions provided by special Conventions, it is especially forbidden—

(*a.*) To employ poison or poisoned weapons;

(*b.*) To kill or wound treacherously individuals belonging to the hostile nation or army;

(*c.*) To kill or wound an enemy who, having laid down his arms, or having no longer means of defence, has surrendered at discretion;

(*d.*) To declare that no quarter will be given;

(*e.*) To employ arms, projectiles, or material calculated to cause unnecessary suffering;

(*f.*) To make improper use of a flag of truce, of the national flag, or of the military insignia and uniform of the enemy, as well as the distinctive badges of the Geneva Convention;

(*g.*) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war;

(*h.*) To declare abolished, suspended, or inadmissible in a Court of law the rights and actions of the nationals of the hostile party.

A belligerent is likewise forbidden to compel the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war.

ARTICLE XXIV.

Ruses of war and the employment of measures necessary for obtaining information about the enemy and the country are considered permissible.

ARTICLE XXV.

The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited.

ARTICLE XXVI.

The officer in command of an attacking force must, before commencing a bombardment, except in cases of assault, do all in his power to warn the authorities.

ARTICLE XXVII.

In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.

It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.

ARTICLE XXVIII.

The pillage of a town or place, even when taken by assault, is prohibited.

CHAPTER II.—*Spies.*

ARTICLE XXIX.

A person can only be considered a spy when, acting clandestinely or on false pretences, he obtains or endeavours to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Thus, soldiers not wearing a disguise who have penetrated into the zone of operations of the hostile army, for the purpose of obtaining information, are not considered spies. Similarly, the following are not considered spies: Soldiers and civilians,

carrying out their mission openly, intrusted with the delivery of despatches intended either for their own army or for the enemy's army. To this class belong likewise persons sent in balloons for the purpose of carrying despatches and, generally, of maintaining communications between the different parts of an army or a territory.

ARTICLE XXX.

A spy taken in the act shall not be punished without previous trial.

ARTICLE XXXI.

A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

CHAPTER III.—*Flags of Truce.*

ARTICLE XXXII.

A person is regarded as bearing a flag of truce who has been authorized by one of the belligerents to enter into communication with the other, and who advances bearing a white flag. He has a right to inviolability, as well as the trumpeter, bugler or drummer, the flag-bearer and interpreter who may accompany him.

ARTICLE XXXIII.

The commander to whom a flag of truce is sent is not in all cases obliged to receive it.

He may take all the necessary steps to prevent the envoy taking advantage of his mission to obtain information.

In case of abuse, he has the right to detain the envoy temporarily.

ARTICLE XXXIV.

The envoy loses his rights of inviolability if it is proved in a clear and incontestable manner that he has taken advantage of his privileged position to provoke or commit an act of treachery.

CHAPTER IV.—*Capitulations.*

ARTICLE XXXV.

Capitulations agreed upon between the contracting parties must take into account the rules of military honour.

Once settled, they must be scrupulously observed by both parties.

CHAPTER V.—*Armistices.*

ARTICLE XXXVI.

An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not defined, the belligerent parties may resume operations at any time, provided always that the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

ARTICLE XXXVII.

An armistice may be general or local. The first suspends the military operations of the belligerent States everywhere; the second only between certain fractions of the belligerent armies and within a fixed radius.

ARTICLE XXXVIII.

An armistice must be notified officially and in good time to the competent authorities and to the troops. Hostilities are suspended immediately after the notification, or on the date fixed.

ARTICLE XXXIX.

It rests with the contracting parties to settle, in the terms of the armistice, what communications may be held in the theatre of war with the inhabitants and between the inhabitants of one belligerent State and those of the other.

ARTICLE XL.

Any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately.

ARTICLE XLI.

A violation of the terms of the armistice by private persons acting on their own initiative only entitles the injured party to demand the punishment of the offenders or, if necessary, compensation for the losses sustained.

SECTION III.—MILITARY AUTHORITY OVER THE TERRITORY OF THE HOSTILE STATE.

ARTICLE XLII.

Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation extends only to the territory where such authority has been established and can be exercised.

ARTICLE XLIII.

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

ARTICLE XLIV.

A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defence.

ARTICLE XLV.

It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

ARTICLE XLVI.

Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated.

ARTICLE XLVII.

Pillage is formally forbidden.

ARTICLE XLVIII.

If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do so, as far as is possible, in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate Government was so bound.

ARTICLE XLIX.

If, in addition to the taxes mentioned in the above Article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or of the administration of the territory in question.

ARTICLE L.

No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.

Article LI.

No contribution shall be collected except under a written order, and on the responsibility of a Commander-in-chief.

The collection of the said contribution shall only be effected as far as possible in accordance with the rules of assessment and incidence of the taxes in force.

For every contribution a receipt shall be given to the contributors.

Article LII.

Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

Article LIII.

An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depôts of arms, and, generally, all kinds of ammunition of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made.

Article LIV.

Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They must likewise be restored and compensation fixed when peace is made.

Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

With a view to laying down more clearly the rights and duties of neutral Powers in case of war on land and regulating the position of the belligerents who have taken refuge in neutral territory;

Being likewise desirous of defining the meaning of the term "neutral," pending the possibility of settling, in its entirety, the position of neutral individuals in their relations with the belligerents;

Have resolved to conclude a Convention to this effect, and have, in consequence, appointed the following as their Plenipotentiaries:

[For names of plenipotentiaries, see Final Act, supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

CHAPTER I.—*The Rights and Duties of Neutral Powers.*

ARTICLE I.

The territory of neutral Powers is inviolable.

ARTICLE II.

Belligerents are forbidden to move troops or convoys of either munitions of war or supplies across the territory of a neutral Power.

ARTICLE III.

Belligerents are likewise forbidden to:

(*a.*) Erect on the territory of a neutral Power a wireless telegraphy station or other apparatus for the purpose of communicating with belligerent forces on land or sea;

(*b.*) Use any installation of this kind established by them before the war on the territory of a neutral Power for purely military purposes, and which has not been opened for the service of public messages.

ARTICLE IV.

Corps of combatants cannot be formed nor recruiting agencies opened on the territory of a neutral Power to assist the belligerents.

ARTICLE V.

A neutral Power must not allow any of the acts referred to in Articles II to IV to occur on its territory.

It is not called upon to punish acts in violation of its neutrality unless the said acts have been committed on its own territory.

ARTICLE VI.

The responsibility of a neutral Power is not engaged by the fact of persons crossing the frontier separating to offer their services to one of the belligerents.

ARTICLE VII.

A neutral Power is not called upon to prevent the export or transport, on behalf of one or other of the belligerents, of arms, munitions of war, or, in general, of anything which can be of use to an army or a fleet.

ARTICLE VIII.

A neutral Power is not called upon to forbid or restrict the use on behalf of the belligerents of telegraph or telephone cables or of wireless telegraphy apparatus belonging to it or to Companies or private individuals.

ARTICLE IX.

Every measure of restriction or prohibition taken by a neutral Power in regard to the matters referred to in Articles VII and VIII must be impartially applied by it to both belligerents.

A neutral Power must see to the same obligation being observed by Companies or private individuals owning telegraph or telephone cables or wireless telegraphy apparatus.

ARTICLE X.

The fact of a neutral Power resisting, even by force, attempts to violate its neutrality cannot be regarded as a hostile act.

CHAPTER II.—*Belligerents Interned and Wounded tended in Neutral Territory.*

ARTICLE XI.

A neutral Power which receives on its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

It may keep them in camps and even confine them in fortresses or in places set apart for this purpose.

It shall decide whether officers can be left at liberty on giving their parole not to leave the neutral territory without permission.

ARTICLE XII.

In the absence of a special Convention to the contrary, the neutral Power shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace the expenses caused by the internment shall be made good.

ARTICLE XIII.

A neutral Power which receives escaped prisoners of war shall leave them at liberty. If it allows them to remain in its territory it may assign them a place of residence.

The same rule applies to prisoners of war brought by troops taking refuge in the territory of a neutral Power.

ARTICLE XIV.

A neutral Power may authorize the passage into its territory of the sick and wounded belonging to the belligerent armies, on condition that the trains bringing them shall carry neither personnel or war material. In such a case, the neutral Power is bound to take whatever measures of safety and control are necessary for the purpose.

The sick or wounded brought under these conditions into neutral territory by one of the belligerents, and belonging to the

hostile party, must be guarded by the neutral Power so as to ensure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.

ARTICLE XV.

The Geneva Convention applies to sick and wounded interned in neutral territory.

CHAPTER III.—*Neutral Persons.*

ARTICLE XVI.

The nationals of a State which is not taking part in the war are considered as neutrals.

ARTICLE XVII.

A neutral cannot avail himself of his neutrality:

(*a.*) If he commits hostile acts against a belligerent;

(*b.*) If he commits acts in favour of a belligerent, particularly if he voluntarily enlists in the ranks of the armed force of one of the parties.

In such a case, the neutral shall not be more severely treated by the belligerent as against whom he has abandoned his neutrality than a national of the other belligerent State could be for the same act.

ARTICLE XVIII.

The following acts shall not be considered as committed in favour of one belligerent in the sense of Article XVII, letter (*b*):

(*a.*) Supplies furnished or loans made to one of the belligerents, provided that the person who furnishes the supplies or who makes the loans lives neither in the territory of the other party nor in the territory occupied by him, and that the supplies do not come from these territories;

(*b.*) Services rendered in matters of police or civil administration.

CHAPTER IV.—*Railway Material.*

ARTICLE XIX.

Railway material coming from the territory of neutral Powers, whether it be the property of the said Powers or of Companies or private persons, and recognizable as such, shall not be requi-

sitioned or utilized by a belligerent except where and to the extent that it is absolutely necessary. It shall be sent back as soon as possible to the country of origin.

A neutral Power may likewise, in case of necessity, retain and utilize to an equal extent material coming from the territory of the belligerent Power.

Compensation shall be paid by one party or the other in proportion to the material used, and to the period of usage.

Chapter V.—*Final Provisions.*

Article XX.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

Article XXI.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification shall be immediately sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform them of the date on which it received the notification.

Article XXII.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall immediately forward to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE XXIII.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE XXIV.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers, informing them at the same time of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE XXV.

A register kept by the Netherland Ministry of Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article XXI, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article XXII, paragraph 2) or of denunciation (Article XXIV, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at the Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Executive M, Sixtieth Congress, first session—Confidential.]

SUBMARINE CONTACT MINES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE LAYING OF AUTOMATIC SUBMARINE CONTACT MINES.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haiti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His

Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Inspired by the principle of the freedom of sea routes, the common highways of all nations;

Seeing that, although the existing position of affairs makes it impossible to forbid the employment of automatic submarine contact mines, it is nevertheless desirable to restrict and regulate their employment in order to mitigate the severity of war and to ensure, as far as possible, to peaceful navigation the security to which it is entitled, despite the existence of war;

Until such time as it is found possible to formulate rules on the subject which shall ensure to the interests involved all the guarantees desirable;

Have resolved to conclude a Convention for this purpose, and have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

Article I.

It is forbidden:

1. To lay unanchored automatic contact mines, except when they are so constructed as to become harmless one hour at most after the person who laid them ceases to control them;

2. To lay anchored automatic contact mines which do not become harmless as soon as they have broken loose from their moorings;

3. To use torpedoes which do not become harmless when they have missed their mark.

Article II.

It is forbidden to lay automatic contact mines off the coast and ports of the enemy, with the sole object of intercepting commercial shipping.

ARTICLE III.

When anchored automatic contact mines are employed, every possible precaution must be taken for the security of peaceful shipping.

The belligerents undertake to do their utmost to render these mines harmless within a limited time, and, should they cease to be under surveillance, to notify the danger zones as soon as military exigencies permit, by a notice addressed to ship owners, which must also be communicated to the Governments through the diplomatic channel.

ARTICLE IV.

Neutral Powers which lay automatic contact mines off their coasts must observe the same rules and take the same precautions as are imposed on belligerents.

The neutral Power must inform ship-owners, by a notice issued in advance, where automatic contact mines have been laid. This notice must be communicated at once to the Governments through the diplomatic channel.

ARTICLE V.

At the close of the war, the Contracting Powers undertake to do their utmost to remove the mines which they had laid, each Power removing its own mines.

As regards anchored automatic contact mines laid by one of the belligerents off the coast of the other, their position must be notified to the other party by the Power which laid them, and each Power must proceed with the least possible delay to remove the mines in its own waters.

ARTICLE VI.

The Contracting Powers which do not at present own perfected mines of the pattern contemplated in the present Convention, and which, consequently, could not at present carry out the rules laid down in Articles I and III, undertake to convert the *matériel* of their mines as soon as possible, so as to bring it into conformity with the foregoing requirements.

ARTICLE VII.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE VIII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent, by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it has received the notification.

ARTICLE IX.

Non-Signatory Powers may adhere to the present Convention

The Power which desires to adhere notifies in writing its intention to the Netherland Government, transmitting to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification.

ARTICLE X.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

Article XI.

The present Convention shall remain in force for seven years, dating from the sixtieth day after the date of the first deposit of ratifications.

Unless denounced, it shall continue in force after the expiration of this period.

The denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and six months after the notification has reached the Netherland Government.

Article XII.

The Contracting Powers undertake to reopen the question of the employment of automatic contact mines six months before the expiration of the period contemplated in the first paragraph of the preceding Article, in the event of the question not having been already reopened and settled by the Third Peace Conference.

If the Contracting Powers conclude a fresh Convention relative to the employment of mines, the present Convention shall cease to be applicable from the moment it comes into force.

Article XIII.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article VIII, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article IX, paragraph 2) or of denunciation (Article XI, paragraph 3) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Executive N, Sixtieth Congress, first session—Confidential.]

BOMBARDMENT BY NAVAL FORCES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RESPECTING BOMBARDMENT BY NAVAL FORCES IN TIME OF WAR.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haiti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial

Article XI.

The present Convention shall remain in force for seven years, dating from the sixtieth day after the date of the first deposit of ratifications.

Unless denounced, it shall continue in force after the expiration of this period.

The denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and six months after the notification has reached the Netherland Government.

Article XII.

The Contracting Powers undertake to reopen the question of the employment of automatic contact mines six months before the expiration of the period contemplated in the first paragraph of the preceding Article, in the event of the question not having been already reopened and settled by the Third Peace Conference.

If the Contracting Powers conclude a fresh Convention relative to the employment of mines, the present Convention shall cease to be applicable from the moment it comes into force.

Article XIII.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article VIII, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article IX, paragraph 2) or of denunciation (Article XI, paragraph 3) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Executive N, Sixtieth Congress, first session—Confidential.]

BOMBARDMENT BY NAVAL FORCES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RESPECTING BOMBARDMENT BY NAVAL FORCES IN TIME OF WAR.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haiti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial

Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Animated by the desire to realize the wish expressed by the First Peace Conference respecting the bombardment by naval forces of undefended ports, towns, and villages;

Whereas it is expedient that bombardments by naval forces should be subject to rules of general application which would safeguard the rights of the inhabitants and assure the preservation of the more important buildings, by applying as far as possible to this operation of war the principles of the Regulation of 1899 respecting the Laws and Customs of Land War;

Actuated, accordingly, by the desire to serve the interests of humanity and to diminish the severity and disasters of war;

Have resolved to conclude a Convention to this effect, and have, for this purpose, appointed the following as their Plenipotentiaries:—

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:—

CHAPTER I.—*The Bombardment of Undefended Ports, Towns, Villages, Dwellings, or Buildings.*

ARTICLE I.

The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden.

A place cannot be bombarded solely because automatic submarine contact mines are anchored off the harbour.

ARTICLE II.

Military works, military or naval establishments, depôts of arms or war *matériel*, workshops or plant which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbour, are not, however, included in this prohibition. The commander of a naval force may destroy them with artillery, after a summons followed by a reasonable time

of waiting, if all other means are impossible, and when the local authorities have not themselves destroyed them within the time fixed.

He incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances.

If for military reasons immediate action is necessary, and no delay can be allowed the enemy, it is understood that the prohibition to bombard the undefended town holds good, as in the case given in paragraph 1, and that the commander shall take all due measures in order that the town may suffer as little harm as possible.

Article III.

After due notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be commenced, if the local authorities, after a formal summons has been made to them, decline to comply with requisitions for provisions or supplies necessary for the immediate use of the naval force before the place in question.

These requisitions shall be in proportion to the resources of the place. They shall only be demanded in the name of the commander of the said naval force, and they shall, as far as possible, be paid for in cash; if not, they shall be evidenced by receipts.

Article IV.

Undefended ports, towns, villages, dwellings, or buildings may not be bombarded on account of failure to pay money contributions.

Chapter II.—*General Provisions.*

Article V.

In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes.

It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large stiff rectangular panels divided diagonally into two coloured

triangular portions, the upper portion black, the lower portion white.

ARTICLE VI.

If the military situation permits, the commander of the attacking naval force, before commencing the bombardment, must do his utmost to warn the authorities.

ARTICLE VII.

A town or place, even when taken by storm, may not be pillaged.

CHAPTER III.—*Final Provisions.*

ARTICLE VIII.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE IX.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister of Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE X.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere shall notify its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall immediately forward to all the other Powers a duly certified copy of the notification, as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE XI.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE XII.

In the event of one of the contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE XIII.

A register kept by the Netherland Minister for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article IX, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article X, paragraph 2) or of denunciation (Article XII, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Executive O, Sixtieth Congress, first session—Confidential.]

NAVAL WAR AND THE GENEVA CONVENTION.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, FOR THE ADAPTATION TO NAVAL WAR OF THE PRINCIPLES OF THE GENEVA CONVENTION.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the

Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Animated alike by the desire to diminish, as far as depends on them, the inevitable evils of war;

And wishing with this object to adapt to maritime warfare the principles of the Geneva Convention of the 6th July, 1906;

Have resolved to conclude a Convention for the purpose of revising the Convention of the 29th July, 1899, relative to this question, and have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries see Final Act, supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

ARTICLE I.

Military hospital-ships, that is to say, ships constructed or assigned by States specially and solely with a view to assisting the wounded, sick, and shipwrecked, the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected, and cannot be captured while hostilities last.

These ships, moreover, are not on the same footing as warships as regards their stay in a neutral port.

ARTICLE II.

Hospital-ships, equipped wholly or in part at the expense of private individuals or officially recognized relief societies, shall be likewise respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships must be provided with a certificate from the competent authorities declaring that the vessels have been under their control while fitting out and on final departure.

ARTICLE III.

Hospital-ships, equipped wholly or in part at the expense of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, on condition that they are placed under the control of one of the belligerents, with the previous consent of their own Government and with the authorization of the belligerent himself, and that the latter has notified their name to his adversary at the commencement of or during hostilities, and in any case, before they are employed.

ARTICLE IV.

The ships mentioned in Articles I, II, and III shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use these ships for any military purpose.

These vessels must in no wise hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents shall have the right to control and search them; they can refuse to help them, order them off, make them take a certain course, and put a Commissioner on board; they can even detain them, if important circumstances require it.

As far as possible, the belligerents shall enter in the log of the hospital-ships the orders which they give them.

ARTICLE V.

Military hospital-ships shall be distinguished by being painted white outside with a horizontal band of green about a metre and a-half in breadth.

The ships mentioned in Articles II and III shall be distinguished by being painted white outside with a horizontal band of red about a metre and a-half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital-ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross provided by the Geneva Convention, and further, if they belong to a neutral State, by flying at the mainmast the national flag of the belligerent under whose control they are placed.

Hospital-ships which, in the terms of Article IV, are detained by the enemy, must haul down the national flag of the belligerent to whom they belong.

The ships and boats above mentioned which wish to ensure by night the freedom from interference to which they are entitled, must, subject to the assent of the belligerent they are accompanying, take the necessary measures to render their special painting sufficiently plain.

Article VI.

The distinguishing signs referred to in Article V can only be used, whether in time of peace or war, for protecting or indicating the ships therein mentioned.

Article VII.

In the case of a fight on board a war-ship, the sick-wards shall be respected and spared as far as possible.

The said sick-wards and the *matériel* belonging to them remain subject to the laws of war; they cannot, however, be used for any purpose other than that for which they were originally intended, so long as they are required for the sick and wounded.

The commander, however, into whose power they have fallen may apply them to other purposes, if the military situation requires it, after seeing that the sick and wounded on board are properly provided for.

Article VIII.

Hospital-ships and sick-wards of vessels are no longer entitled to protection if they are employed for the purpose of injuring the enemy.

The fact of the staff of the said ships and sick-wards being armed for maintaining order and for defending the sick and wounded, and the presence of wireless telegraphy apparatus on board, is not a sufficient reason for withdrawing protection.

ARTICLE IX.

Belligerents may appeal to the charity of the commanders of neutral merchant-ships, yachts, or boats to take on board and tend the sick and wounded.

Vessels responding to this appeal, and also vessels which have of their own accord rescued sick, wounded, or shipwrecked men, shall enjoy special protection and certain immunities. In no case can they be captured for having such persons on board, but, apart from special undertakings that have been made to them, they remain liable to capture for any violations of neutrality they may have committed.

ARTICLE X.

The religious, medical, and hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take away with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave, when the Commander-in-chief considers it possible.

The belligerents must guarantee to the said staff, when it has fallen into their hands, the same allowances and pay which are given to the staff of corresponding rank in their own navy.

ARTICLE XI.

Sailors and soldiers on board, when sick or wounded, as well as other persons officially attached to fleets or armies, whatever their nationality, shall be respected and tended by the captors.

ARTICLE XII.

Any war-ship belonging to a belligerent may demand that sick, wounded, or shipwrecked men on board military hospital-ships, hospital-ships belonging to relief societies or to private individuals, merchant-ships, yachts, or boats, whatever the nationality of these vessels, should be handed over.

ARTICLE XIII.

If sick, wounded, or shipwrecked persons are taken on board a neutral war-ship, every possible precaution must be taken that they do not again take part in the operations of the war.

ARTICLE XIV.

The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated cannot serve again while the war lasts.

ARTICLE XV.

The shipwrecked, sick, or wounded, who are landed at a neutral port with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral State and the belligerent States, be guarded by the neutral State so as to prevent them again taking part in the operations of the war.

The expenses of tending them in hospital and interning them shall be borne by the State to which the shipwrecked, sick, or wounded persons belong.

ARTICLE XVI.

After every engagement, the two belligerents, so far as military interests permit, shall take steps to look for the shipwrecked, sick, and wounded, and to protect them, as well as the dead, against pillage and ill treatment.

They shall see that the burial, whether by land or sea, or cremation of the dead shall be preceded by a careful examination of the corpse.

ARTICLE XVII.

Each belligerent shall send, as early as possible, to the authorities of their country, navy, or army the military marks or documents of identity found on the dead and the description of the sick and wounded picked up by him.

The belligerents shall keep each other informed as to interments and transfers as well as to the admissions into hospital and deaths which have occurred among the sick and wounded in their hands. They shall collect all the objects of personal use, valuables, letters, &c., which are found in the captured ships, or which have been left by the sick or wounded who died in hospital, in order to have them forwarded to the persons concerned by the authorities of their own country.

ARTICLE XVIII.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE XIX.

The Commanders-in-chief of the belligerent fleets must see that the above Articles are properly carried out; they will have also to see to cases not covered thereby, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.

ARTICLE XX.

The Signatory Powers shall take the necessary measures for bringing the provisions of the present Convention to the knowledge of their naval forces, and especially of the members entitled thereunder to immunity, and for making them known to the public.

ARTICLE XXI.

The Signatory Powers likewise undertake to enact or to propose to their Legislatures, if their criminal laws are inadequate, the measures necessary for checking in time of war individual acts of pillage and ill-treatment in respect to the sick and wounded in the fleet, as well as for punishing, as an unjustifiable adoption of naval or military marks, the unauthorized use of the distinctive marks mentioned in Article V by vessels not protected by the present Convention.

They will communicate to each other, through the Netherland Government, the enactments for preventing such acts at the latest within five years of the ratification of the present Convention.

ARTICLE XXII.

In the case of operations of war between the land and sea forces of belligerents, the provisions of the present Convention do not apply except between the forces actually on board ship.

ARTICLE XXIII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers taking part *therein* and by the Netherland Minister for Foreign Affairs.

Subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government through the diplomatic channel to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE XXIV.

Non-Signatory Powers which have accepted the Geneva Convention of the 6th July, 1906, may adhere to the present Convention.

The Power which desires to adhere notifies its intention to the Netherland Government in writing, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE XXV.

The present Convention, duly ratified, shall replace as between Contracting Powers, the Convention of the 29th July, 1899, for the adaptation to maritime warfare of the principles of the Geneva Convention.

The Convention of 1899 remains in force as between the Powers which signed it but which do not also ratify the present Convention.

ARTICLE XXVI.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of

their ratification or of their adhesion has been received by the Netherland Government.

Article XXVII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers, informing them at the same time of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

Article XXVIII.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article XXIII, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article XXIV, paragraph 2) or of denunciation (Article XXVII, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Executive P, Sixtieth Congress, first session—Confidential.]

RIGHT OF CAPTURE IN NAVAL WAR.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO CERTAIN RESTRICTIONS WITH REGARD TO THE EXERCISE OF THE RIGHT OF CAPTURE IN NAVAL WAR.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Nether-

lands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Recognizing the necessity of more effectively ensuring than hitherto the equitable application of law to the international relations of maritime Powers in time of war;

Considering that, for this purpose, it is expedient, in giving up or, if necessary, in harmonizing for the common interest certain conflicting practices of long standing, to commence codifying in regulations of general application the guarantees due to peaceful commerce and legitimate business, as well as the conduct of hostilities by sea; that it is expedient to lay down in written mutual engagements the principles which have hitherto remained in the uncertain domain of controversy or have been left to the discretion of Governments;

That, from henceforth, a certain number of rules may be made, without affecting the common law now in force with regard to the matters which that law has left unsettled;

Have appointed the following as their Plenipotentiari s:

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

CHAPTER I.—*Postal Correspondence.*

ARTICLE I.

The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

ARTICLE II.

The inviolability of postal correspondence does not exempt a neutral mail-ship from the laws and customs of maritime war as to neutral merchant-ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

CHAPTER II.—*The Exemption from Capture of certain Vessels.*

ARTICLE III.

Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

They cease to be exempt as soon as they take any part whatever in hostilities.

The Contracting Powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.

ARTICLE IV.

Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

CHAPTER III.—*Regulations regarding the Crews of Enemy Merchant-ships Captured by a Belligerent.*

ARTICLE V.

When an enemy merchant-ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war.

The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.

ARTICLE VI.

The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war.

ARTICLE VII.

The names of the persons retaining their liberty under the conditions laid down in Article V, paragraph 2, and in Article

VI, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

Article VIII.

The provisions of the three preceding Articles do not apply to ships taking part in the hostilities.

Chapter IV.—*Final Provisions.*

Article IX.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

Article X.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers taking part therein and by the Netherland Minister for Foreign Affairs.

Subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

Article XI.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

Article XII.

The present Convention shall come into force in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification has been received by the Netherland Government.

Article XIII.

In the event of one the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

Article XIV.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article X, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article XI, paragraph 2) or of denunciation (Article XIII, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers invited to the Second Peace Conference.

[Executive R, Sixtieth Congress, first session—Confidential.]

NEUTRAL POWERS IN NAVAL WAR.

[Not signed by the delegates of the United States.]

A CONVENTION ADOPTED BY THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS IN NAVAL WAR.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

APRIL 17, 1908.—Adhered to excepting Article 23.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty

the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

With a view to harmonizing the divergent views which, in the event of naval war, are still held on the relations between neutral Powers and belligerent Powers, and to anticipating the difficulties to which such divergence of views might give rise;

Seeing that, even if it is not possible at present to concert measures applicable to all circumstances which may in practice occur, it is nevertheless undeniably advantageous to frame, as far as possible, rules of general application to meet the case where war has unfortunately broken out;

Seeing that, in cases not covered by the present Convention, it is expedient to take into consideration the general principles of the law of nations;

Seeing that it is desirable that the Powers should issue detailed enactments to regulate the results of the attitude of neutrality when adopted by them;

Seeing that it is, for neutral Powers, an admitted duty to apply these rules impartially to the several belligerents;

Seeing that, in this category of ideas, these rules should not, in principle, be altered, in the course of the war, by a neutral Power, except in a case where experience has shown the necessity for such change for the protection of the rights of that Power;

Have agreed to observe the following common rules, which cannot however modify provisions laid down in existing general Treaties, and have appointed as their Plenipotentiaries, namely:

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

ARTICLE I.

Belligerents are bound to respect the sovereign rights of neutral Powers and to abstain, in neutral territory or neutral waters, from any act which would, if knowingly permitted by any Power, constitute a violation of neutrality.

ARTICLE II.

Any act of hostility, including capture and the exercise of the right of search, committed by belligerent war-ships in the territorial waters of a neutral Power, constitutes a violation of neutrality and is strictly forbidden.

ARTICLE III.

When a ship has been captured in the territorial waters of a neutral Power, this Power must employ, if the prize is still within its jurisdiction, the means at its disposal to release the prize with its officers and crew, and to intern the prize crew.

If the prize is not in the jurisdiction of the neutral Power, the captor Government, on the demand of that Power, must liberate the prize with its officers and crew.

ARTICLE IV.

A Prize Court cannot be set up by a belligerent on neutral territory or on a vessel in neutral waters.

ARTICLE V.

Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect wireless telegraphy stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.

ARTICLE VI.

The supply, in any manner, directly or indirectly, by a neutral Power to a belligerent Power, of war-ships, ammunition, or war material of any kind whatever, is forbidden.

ARTICLE VII.

A neutral Power is not bound to prevent the export or transit, for the use of either belligerent, of arms, ammunitions, or, in general, of anything which could be of use to an army or fleet.

ARTICLE VIII.

A neutral Government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations, against a Power with which that Government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise, or engage in hostile operations, which had been adapted entirely or partly within the said jurisdiction for use in war.

ARTICLE IX.

A neutral Power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters, of belligerent war-ships or of their prizes.

Nevertheless, a neutral Power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.

ARTICLE X.

The neutrality of a Power is not affected by the mere passage through its territorial waters of war-ships or prizes belonging to belligerents.

ARTICLE XI.

A neutral Power may allow belligerent war-ships to employ its licensed pilots.

ARTICLE XII.

In the absence of special provisions to the contrary in the legislation of a neutral Power, belligerent war-ships are not permitted to remain in the ports, roadsteads, or territorial waters of the said Power for more than twenty-four hours, except in the cases covered by the present Convention.

ARTICLE XIII.

If a Power which has been informed of the outbreak of hostilities learns that a belligerent war-ship is in one of its ports or roadsteads, or in its territorial waters, it must notify the said ship to depart within twenty-four hours or within the time prescribed by local regulations.

ARTICLE XIV.

A belligerent war-ship may not prolong its stay in a neutral port beyond the permissible time except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end.

The regulations as to the question of the length of time which these vessels may remain in neutral ports, roadsteads, or waters, do not apply to war-ships devoted exclusively to religious, scientific, or philanthropic purposes.

ARTICLE XV.

In the absence of special provisions to the contrary in the legislation of a neutral Power, the maximum number of war-ships belonging to a belligerent which may be in one of the ports or roadsteads of that Power simultaneously shall be three.

ARTICLE XVI.

When war-ships belonging to both belligerents are present simultaneously in a neutral port or roadstead, a period of not less than twenty-four hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other.

The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissible.

A belligerent war-ship may not leave a neutral port or roadstead until twenty-four hours after the departure of a merchant-ship flying the flag of its adversary.

ARTICLE XVII.

In neutral ports and roadsteads belligerent war-ships may only carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The local authorities of the neutral Power shall decide what repairs are necessary, and these must be carried out with the least possible delay.

ARTICLE XVIII.

Belligerent war-ships may not make use of neutral ports, roadsteads, on territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.

ARTICLE XIX.

Belligerent war-ships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard.

Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

If, in accordance with the law of the neutral Power, the ships are not supplied with coal within twenty-four hours of their arrival, the permissible duration of their stay is extended by twenty-four hours.

ARTICLE XX.

Belligerent war-ships which have shipped fuel in a port belonging to a neutral Power may not within the succeeding three months replenish their supply in a port of the same Power.

ARTICLE XXI.

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral Power must order it to leave at once; should it fail to obey, the neutral Power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.

ARTICLE XXII.

A neutral Power must, similarly, release a prize brought into one of its ports under circumstances other than those referred to in Article XXI.

ARTICLE XXIII.

A neutral Power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestrated pending the decision of a Prize Court. It may have the prize taken to another of its ports.

If the prize is convoyed by a war-ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

ARTICLE XXIV.

If, notwithstanding the notification of the neutral Power, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral Power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.

When a belligerent ship is detained by a neutral Power, the officers and crew are likewise detained.

The officers and crew thus detained may be left in the ship or kept either on another vessel or on land, and may be subjected to the measures of restriction which it may appear necessary to impose upon them. A sufficient number of men for looking after the vessel must, however, be always left on board.

The officers may be left at liberty on giving their word not to quit the neutral territory without permission.

ARTICLE XXV.

A neutral Power is bound to exercise such surveillance as the means at its disposal allow to prevent any violation of the provisions of the above Articles occurring in its ports or roadsteads or in its waters.

ARTICLE XXVI.

The exercise by a neutral Power of the rights laid down in the present Convention can under no circumstances be considered as an unfriendly act by one or other belligerent who has accepted the Article relating thereto.

ARTICLE XXVII.

The Contracting Powers shall communicate to each other in due course all Laws, Proclamations, and other enactments regulating in their respective countries the status of belligerent warships in their ports and waters, by means of a communication addressed to the Government of the Netherlands, and forwarded immediately by that Government to the other Contracting Powers.

ARTICLE XXVIII.

The provisions of the present Convention do not apply except to the Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE XXIX.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the ratifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE XXX.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

That Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE XXXI.

The present Convention shall come into force in the case of the Powers which were a party to the first deposit of the ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers who ratify subsequently or who adhere, sixty days after the notification of their ratification or of their decision has been received by the Netherland Government.

Article XXXII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has been made to the Netherland Government.

Article XXXIII.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made by Article XXIX, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article XXX, paragraph 2) or of denunciation (Article XXXII, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

RESOLUTION OF RATIFICATION OF A CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS IN NAVAL WAR, SIGNED AT THE HAGUE, 1907.

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the adherence of the United States to a convention adopted by the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, concerning the rights and duties of neutral powers in naval war, reserving and excluding, however, Article XXIII thereof, which is in the following words:

> A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestrated pending the decision of a prize court. It may have the prize taken to another of its ports.
>
> If the prize is convoyed by a war ship, the prize crew may go on board the convoying ship.
>
> If the prize is not under convoy, the prize crew are left at liberty.

Resolved, *further*, That the United States adheres to this convention with the understanding that the last clause of Article III implies the duty of a neutral power to make the demand therein mentioned for the return of a ship captured within the neutral jurisdiction and no longer within that jurisdiction.

[Executive S, Sixtieth Congress, first session—Confidential.]

DISCHARGING PROJECTILES FROM BALLOONS.

A DECLARATION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, PROHIBITING THE DISCHARGE OF PROJECTILES AND EXPLOSIVES FROM BALLOONS.

FEBRUARY 27, 1908.—Read; declaration read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

The Undersigned, Plenipotentiaries of the Powers invited to the Second International Peace Conference at The Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868, and being desirous of renewing the declaration of The Hague of the 29th July, 1899, which has now expired,

Declare:

The Contracting Powers agree to prohibit, for a period extending to the close of the Third Peace Conference, the discharge of projectiles and explosives from balloons or by other new methods of a similar nature.

The present Declaration is only binding on the Contracting Powers in case of war between two or more of them.

It shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

A *procès-verbal* shall be drawn up recording the receipt of the ratifications, of which a duly certified copy shall be sent, through the diplomatic channel, to all the Contracting Powers.

Non-Signatory Powers may adhere to the present Declaration. To do so, they must make known their adhesion to the Contracting Powers by means of a written notification, addressed to the Netherland Government, and communicated by it to all the other Contracting Powers.

In the event of one of the High Contracting Parties denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and forthwith communicated by it to all the other Contracting Powers.

This denunciation shall only have affect in regard to the notifying Power.

In faith whereof the Plenipotentiaries have appended their signatures to the present Declaration.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Contracting Powers.

[Executive K, Sixtieth Congress, first session—Confidential.]

STATUS OF ENEMY MERCHANT SHIPS.

[Not signed by the delegates of the United States—Not ratified by the Senate.]

A CONVENTION ADOPTED BY THE SECOND INTERNATIONAL PEACE CONFERENCE, HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE STATUS OF ENEMY MERCHANT SHIPS AT THE OUTBREAK OF HOSTILITIES.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

[Not reported.]

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the

Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Anxious to ensure the security of international commerce against the surprises of war, and wishing, in accordance with modern practice, to protect as far as possible operations undertaken in good faith and in process of being carried out before the outbreak of hostilities, have resolved to conclude a Convention to this effect, and have appointed the following persons as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

ARTICLE I.

When a merchant-ship belonging to one of the belligerent Powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately, or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated.

The same rule should apply in the case of a ship which has left its last port of departure before the commencement of the war and entered a port belonging to the enemy while still ignorant that hostilities had broken out.

ARTICLE II.

A merchant-ship unable, owing to circumstances of *force majeure*, to leave the enemy port within the period contemplated in the above Article, or which was not allowed to leave, cannot be confiscated.

The belligerent may only detain it, without payment of compensation, but subject to the obligation of restoring it after the war, or requisition it on payment of compensation.

ARTICLE III.

Enemy merchant-ships which left their last port of departure before the commencement of the war, and are encountered on the high seas while still ignorant of the outbreak of hostilities cannot be confiscated. They are only liable to detention on the understanding that they shall be restored after the war without compensation, or to be requisitioned, or even destroyed, on payment of compensation, but in such case provision must be made for the safety of the persons on board as well as the security of the ship's papers.

After touching at a port in their own country or at a neutral port, these ships are subject to the laws and customs of maritime war.

ARTICLE IV.

Enemy cargo on board the vessels referred to in Articles I and II is likewise liable to be detained and restored after the termination of the war without payment of compensation, or to be requisitioned on payment of compensation, with or without the ship.

The same rule applies in the case of cargo on board the vessels referred to in Article III.

ARTICLE V.

The present Convention does not affect merchant-ships whose build shows that they are intended for conversion into war-ships.

ARTICLE VI.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE VII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposit of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform them of the date on which it received the notification.

ARTICLE VIII.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification.

ARTICLE IX.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE X.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

Article XI.

A register kept by the Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article VII, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article VIII, paragraph 2) or of denunciation (Article X, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with certified extracts from it.

In faith whereof the Plenipotentiaries have appended to the present Convention their signatures.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Executive L, Sixtieth Congress, first session—Confidential.]

CONVERSION OF MERCHANT SHIPS INTO WAR SHIPS.

[Not signed by the delegates of the United States—Not ratified by the Senate.]

A CONVENTION ADOPTED BY THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE CONVERSION OF MERCHANT SHIPS INTO WAR SHIPS.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

[Not reported.]

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the

Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Whereas it is desirable, in view of the incorporation in time of war of merchant-ships in the fighting fleet, to define the conditions subject to which this operation may be effected;

Whereas, however, the Contracting Powers have been unable to come to an agreement on the question whether the conversion of a merchant-ship into a war-ship may take place upon the high seas, it is understood that the question of the place where such conversion is effected remains outside the scope of this Agreement and is in no way affected by the following rules;

Being desirous of concluding a Convention to this effect, have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act, supra.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

Article I.

A merchant-ship converted into a war-ship cannot have the rights and duties accruing to such vessels unless it is placed under the direct authority, immediate control, and responsibility of the Power whose flag it flies.

Article II.

Merchant-ships converted into war-ships must bear the external marks which distinguish the war-ships of their nationality.

Article III.

The commander must be in the service of the State and duly commissioned by the competent authorities. His name must figure on the list of the officers of the fighting fleet.

Article IV.

The crew must be subject to military discipline.

ARTICLE V.

Every merchant-ship converted into a war-ship must observe in its operations the laws and customs of wars.

ARTICLE VI.

A belligerent who converts a merchant-ship into a war-ship must, as soon as possible, announce such conversion in the list of war-ships.

ARTICLE VII.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE VIII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers who take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph the said Government shall at the same time inform them of the date on which it received the notification.

ARTICLE IX.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

That Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification.

ARTICLE X.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE XI.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE XII.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article VIII, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article IX, paragraph 2) or of denunciation (Article XI, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Executive Q, Sixtieth Congress, first session—Confidential.]

INTERNATIONAL PRIZE COURT.

[Not ratified by the Senate.]

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE CREATION OF AN INTERNATIONAL PRIZE COURT.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

[Not reported.]

HIS Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haïti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panamá; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His

Majesty the King of Portugal and of the Algarves, &c.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Animated by the desire to settle in an equitable manner the differences which sometimes arise in the course of a naval war in connection with the decisions of National Prize Courts;

Considering that, if these Courts are to continue to exercise their functions in the manner determined by national legislation it is desirable that in certain cases an appeal should be provided, under conditions conciliating, as far as possible, the public and private interests involved in matters of prize;

Whereas, moreover, the institution of an International Court, whose jurisdiction and procedure would be carefully defined, has seemed to be the best method of attaining this object;

Convinced, finally, that in this manner the hardships consequent on naval war would be mitigated; that, in particular, good relations will be more easily maintained between belligerents and neutrals and peace better assured;

Desirous of concluding a Convention to this effect, have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries see Final Act, supra.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:—

PART I.—*General Provisions.*

ARTICLE I.

The validity of the capture of a merchant-ship or its cargo is decided before a Prize Court in accordance with the present Convention when neutral or enemy property is involved.

ARTICLE II.

Jurisdiction in matters of prize is exercised in the first instance by the Prize Courts of the belligerent captor.

The judgments of these Courts are pronounced in public or are officially notified to parties concerned who are neutrals or enemies.

ARTICLE III.

The judgments of National Prize Courts may be brought before the International Prize Court—

1. When the judgment of the National Prize Courts affects the property of a neutral Power or individual;

2. When the judgment affects enemy property and relates to—

(*a.*) Cargo on board a neutral ship;

(*b.*) An enemy ship captured in the territorial waters of a neutral Power, when that Power has not made the capture the subject of a diplomatic claim;

(*c.*) A claim based upon the allegation that the seizure has been effected in violation, either of the provisions of a Convention in force between the belligerent Powers, or of an enactment issued by the belligerent captor.

The appeal against the judgment of the National Court can be based on the ground that the judgment was wrong either in fact or in law.

ARTICLE IV.

An appeal may be brought—

1. By a neutral Power, if the judgment of the National Tribunals injuriously affects its property or the property of its nationals (Article III (1)), or if the capture of an enemy vessel is alleged to have taken place in the territorial waters of that Power (Article III (2) (*b*));

2. By a neutral individual, if the judgment of the National Court injuriously affects his property (Article III (1)), subject, however, to the reservation that the Power to which he belongs may forbid him to bring the case before the Court, or may itself undertake the proceedings in his place;

3. By an individual subject or citizen of an enemy Power, if the judgment of the National Court injuriously affects his property in the cases referred to in Article III (2), except that mentioned in paragraph (*b*).

ARTICLE V.

An appeal may also be brought on the same conditions as in the preceding Article, by persons belonging either to neutral States or to the enemy, deriving their rights from and entitled to represent an individual qualified to appeal, and who have

taken part in the proceedings before the National Court. Persons so entitled may appeal separately to the extent of their interest.

The same rule applies in the case of persons belonging either to neutral States or to the enemy who derive their rights from and are entitled to represent a neutral Power whose property was the subject of the decision.

ARTICLE VI.

When, in accordance with the above Article III, the International Court has jurisdiction, the National Courts cannot deal with a case in more than two instances. The municipal law of the belligerent captor shall decide whether the case may be brought before the International Court after judgment has been given in first instance or only after an appeal.

If the National Courts fail to give final judgment within two years from the date of capture, the case may be carried direct to the International Court.

ARTICLE VII.

If a question of law to be decided is covered by a Treaty in force between the belligerent captor and a Power which is itself or whose subject or citizen is a party to the proceedings, the Court is governed by the provisions of the said Treaty.

In the absence of such provisions, the Court shall apply the rules of international law. If no generally recognized rule exists, the Court shall give judgment in accordance with the general principles of justice and equity.

The above provisions apply equally to questions relating to the order and mode of proof.

If, in accordance with Article III (2) (*c*), the ground of appeal is the violation of an enactment issued by the belligerent captor, the Court will enforce the enactment.

The Court may disregard failure to comply with the procedure laid down in the enactments of the belligerent captor, when it is of opinion that the consequences of complying therewith are unjust and inequitable.

ARTICLE VIII.

If the Court pronounces the capture of the vessel or cargo to be valid, they shall be disposed of in accordance with the laws of the belligerent captor.

If it pronounces the capture to be null, the Court shall order restitution of the vessel or cargo, and shall fix, if there is occasion, the amount of the damages. If the vessel or cargo have been sold or destroyed, the Court shall determine the compensation to be given to the owner on this account.

If the national Court pronounced the capture to be null, the Court can only be asked to decide as to the damages.

ARTICLE IX.

The Contracting Powers undertake to submit in good faith to the decisions of the International Prize Court and to carry them out with the least possible delay.

PART II.—*Constitution of the International Prize Court.*

ARTICLE X.

The International Prize Court is composed of Judges and Deputy Judges, who will be appointed by the Contracting Powers, and must all be jurists of known proficiency in questions of international maritime law, and of the highest moral reputation.

The appointment of these Judges and Deputy Judges shall be made within six months after the ratification of the present Convention.

ARTICLE XI.

The Judges and Deputy Judges are appointed for a period of six years, reckoned from the date on which the notification of their appointment is received by the Administrative Council established by the Convention for the Pacific Settlement of International Disputes of the 29th July, 1899. Their appointments can be renewed.

Should one of the Judges or Deputy Judges die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case, the appointment is made for a fresh period of six years.

ARTICLE XII.

The Judges of the International Prize Court are all equal in rank and have precedence according to the date on which the notification of their appointment was received (Article XI, paragraph 1), and if they sit by rota (Article XV, paragraph 2), according to the date on which they entered upon their

duties. When the date is the same the senior in age takes precedence.

The Deputy Judges when acting are assimilated to the Judges. They rank, however, after them.

Article XIII.

The Judges enjoy diplomatic privileges and immunities in the performance of their duties and when outside their own country.

Before taking their seat, the Judges must swear, or make a solemn promise before the Administrative Council, to discharge their duties impartially and conscientiously.

Article XIV.

The Court is composed of fifteen Judges; nine Judges constitute a quorum.

A Judge who is absent or prevented from sitting is replaced by the Deputy Judge.

Article XV.

The Judges appointed by the following Contracting Powers: Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia, are always summoned to sit.

The Judges and Deputy Judges appointed by the other Contracting Powers sit by rota as shown in the Table annexed to the present Convention; their duties may be performed successively by the same person. The same Judge may be appointed by several of the said Powers.

Article XVI.

If a belligerent Power has, according to the rota, no Judge sitting in the Court, it may ask that the Judge appointed by it should take part in the settlement of all cases arising from the war. Lots shall then be drawn as to which of the Judges entitled to sit according to the rota shall withdraw. This arrangement does not affect the Judge appointed by the other belligerent.

Article XVII.

No Judge can sit who has been a party, in any way whatever, to the sentence pronounced by the National Courts, or has taken part in the case as counsel or advocate for one of the parties.

No Judge or Deputy Judge can, during his tenure of office, appear as agent or advocate before the International Prize Court, nor act for one of the parties in any capacity whatever.

ARTICLE XVIII.

The belligerent captor is entitled to appoint a naval officer of high rank to sit as Assessor, but with no voice in the decision. A neutral Power, which is a party to the proceedings or whose subject or citizen is a party, has the same right of appointment; if as the result of this last provision more than one Power is concerned, they must agree among themselves, if necessary by lot, on the officer to be appointed.

ARTICLE XIX.

The Court elects its President and Vice-President by an absolute majority of the votes cast. After two ballots, the election is made by a bare majority, and, in case the votes are equal, by lot.

ARTICLE XX.

The Judges on the International Prize Court are entitled to travelling allowances in accordance with the regulations in force in their own country, and in addition receive, while the Court is sitting or while they are carrying out duties conferred upon them by the Court, a sum of 100 Netherland florins per diem.

These payments are included in the general expenses of the Court dealt with in Article XLVII, and are paid through the International Bureau established by the Convention of the 29th July, 1899.

The Judges may not receive from their own Government or from that of any other Power any remuneration in their capacity of members of the Court.

ARTICLE XXI.

The seat of the International Prize Court is at The Hague and it cannot, except in the case of *force majeure*, be transferred elsewhere without the consent of the belligerents.

ARTICLE XXII.

The Administrative Council fulfils, with regard to the International Prize Court, the same functions as to the Permanent Court of Arbitration, but only Representatives of Contracting Powers will be members of it.

Article XXIII.

The International Bureau acts as registry to the International Prize Court and must place its offices and staff at the disposal of the Court. It has charge of the archives and carries out the administrative work.

The Secretary-General of the International Bureau acts as Registrar.

The necessary secretaries to assist the Registrar, translators and shorthand writers are appointed and sworn in by the Court.

Article XXIV.

The Court determines which language it will itself use and what languages may be used before it, but the official language of the National Courts which have had cognizance of the case may always be used before the Court.

Article XXV.

Powers which are concerned in a case may appoint special agents to act as intermediaries between themselves and the Court. They may also engage counsel or advocates to defend their rights and interests.

Article XXVI.

A private person concerned in a case will be represented before the Court by an attorney, who must be either an advocate qualified to plead before a Court of Appeal or a High Court of one of the Contracting States, or a lawyer practising before a similar Court, or lastly, a professor of law at one of the higher teaching centres of those countries.

Article XXVII.

For all notices to be served, in particular on the parties, witnesses, or experts, the Court may apply direct to the Government of the State on whose territory the service is to be carried out. The same rule applies in the case of steps being taken to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers them calculated to impair its sovereign rights or its safety. If the request is complied with, the fees charged must only comprise the expenses actually incurred.

The Court is equally entitled to act through the Power on whose territory it sits.

Notices to be given to parties in the place where the Court sits may be served through the International Bureau.

PART III.—*Procedure in the International Prize Court.*

ARTICLE XXVIII.

An appeal to the International Prize Court is entered by means of a written declaration made in the National Court which has already dealt with the case or addressed to the International Bureau; in the latter case the appeal can be entered by telegram.

The period within which the appeal must be entered is fixed at 120 days, counting from the day the decision is delivered or notified (Article II, paragraph 2).

ARTICLE XXIX.

If the notice of appeal is entered in the National Court, this Court, without considering the question whether the appeal was entered in due time, will transmit within seven days the record of the case to the International Bureau.

If the notice of the appeal is sent to the International Bureau, the Bureau will immediately inform the National Court, when possible by telegraph. The latter will transmit the record as provided in the preceding paragraph.

When the appeal is brought by a neutral individual the International Bureau at once informs by telegraph the individual's Government, in order to enable it to enforce the rights it enjoys under Article IV, paragraph 2.

ARTICLE XXX.

In the case provided for in Article VI, paragraph 2, the notice of appeal can be addressed to the International Bureau only. It must be entered within thirty days of the expiration of the period of two years.

ARTICLE XXXI.

If the appellant does not enter his appeal within the period laid down in Articles XXVIII or XXX, it shall be rejected without discussion.

Provided that he can show that he was prevented from so doing by *force majeure*, and that the appeal was entered within

sixty days after the circumstances which prevented him entering it before had ceased to operate, the Court can, after hearing the respondent, grant relief from the effect of the above provision.

ARTICLE XXXII.

If the appeal is entered in time, a certified copy of the notice of appeal is forthwith officially transmitted by the Court to the respondent.

ARTICLE XXXIII.

If, in addition to the parties who are before the Court, there are other parties concerned who are entitled to appeal, or if, in the case referred to in Article XXIX, paragraph 3, the Government who has received notice of an appeal has not announced its decision, the Court will await before dealing with the case the expiration of the period laid down in Articles XXVIII or XXX.

ARTICLE XXXIV.

The procedure before the International Court includes two distinct parts: the written pleadings and oral discussions.

The written pleadings consist of the deposit and exchange of cases, counter-cases, and, if necessary, of replies, of which the order is fixed by the Court, as also the periods within which they must be delivered. The parties annex thereto all papers and documents of which they intend to make use.

A certified copy of every document produced by one party must be communicated to the other party through the medium of the Court.

ARTICLE XXXV.

After the close of the pleadings, a public sitting is held on a day fixed by the Court.

At this sitting the parties state their view of the case both as to the law and as to the facts.

The Court may, at any stage of the proceedings, suspend speeches of counsel, either at the request of one of the parties, or on their own initiative, in order that supplementary evidence may be obtained.

ARTICLE XXXVI.

The International Court may order the supplementary evidence to be taken either in the manner provided by Article XXVII, or before itself, or one or more of the members of the

Court, provided that this can be done without resort to compulsion or the use of threats.

If steps are to be taken for the purpose of obtaining evidence by members of the Court outside the territory where it is sitting, the consent of the foreign Government must be obtained.

ARTICLE XXXVII.

The parties are summoned to take part in all stages of the proceedings and receive certified copies of the Minutes.

ARTICLE XXXVIII.

The discussions are under the control of the President or Vice-President, or, in case they are absent or cannot act, of the senior Judge present.

The Judge appointed by a belligerent party cannot preside

ARTICLE XXXIX.

The discussions take place in public, subject to the right of a Government who is a party to the case to demand that they be held in private.

Minutes are taken of these discussions and signed by the President and Registrar, and these Minutes alone have an authentic character.

ARTICLE XL.

If a party does not appear, despite the fact that he has been duly cited, or if a party fails to comply with some step within the period fixed by the Court, the case proceeds without that party, and the Court gives judgment in accordance with the material at its disposal.

ARTICLE XLI.

The Court officially notifies to the parties Decrees or decisions made in their absence.

ARTICLE XLII.

The Court takes into consideration in arriving at its decision all the facts, evidence, and oral statements.

ARTICLE XLIII.

The Court considers its decision in private and the proceedings are secret.

All questions are decided by a majority of the Judges present. If the number of Judges is even and equally divided, the vote

of the junior Judge in the order of precedence laid down in Article XII, paragraph 1, is not counted.

Article XLIV.

The judgment of the Court must give the reasons on which it is based. It contains the names of the Judges taking part in it, and also of the Assessors, if any; it is signed by the President and Registrar.

Article XLV.

The sentence is pronounced in public sitting, the parties concerned being present or duly summoned to attend; the sentence is officially communicated to the parties.

When this communication has been made, the Court transmits to the National Prize Court the record of the case, together with copies of the various decisions arrived at and of the Minutes of the proceedings.

Article XLVI.

Each party pays its own costs.

The party against whom the Court decides bears, in addition, the costs of the trial, and also pays 1 per cent. of the value of the subject-matter of the case as a contribution to the general expenses of the International Court. The amount of these payments is fixed in the judgment of the Court.

If the appeal is brought by an individual, he will furnish the International Bureau with security to an amount fixed by the Court, for the purpose of guaranteeing eventual fulfilment of the two obligations mentioned in the preceding paragraph. The Court is entitled to postpone the opening of the proceedings until the security has been furnished.

Article XLVII.

The general expenses of the International Prize Court are borne by the Contracting Powers in proportion to their share in the composition of the Court as laid down in Article XV and in the annexed Table. The appointment of Deputy Judges does not involve any contribution.

The Administrative Council applies to the Powers for the funds requisite for the working of the Court.

ARTICLE XLVIII.

When the Court is not sitting, the duties conferred upon it by Article XXXII, Article XXXIV, paragraphs 2 and 3, Article XXXV, paragraph 1, and Article XLVI, paragraph 3, are discharged by a delegation of three Judges appointed by the Court. This delegation decides by a majority of votes.

ARTICLE XLIX.

The Court itself draws up its own rules of procedure, which must be communicated to the Contracting Powers.

It will meet to elaborate these rules within a year of the ratification of the present Convention.

ARTICLE L.

The Court may propose modifications in the provisions of the present Convention concerning procedure. These proposals are communicated, through the medium of the Netherland Government, to the Contracting Powers, which will consider together as to the measures to be taken.

PART IV.—*Final Provisions.*

ARTICLE LI.

The present Convention does not apply as of right except when the belligerent Powers are all parties to the Convention.

It is further fully understood that an appeal to the International Prize Court can only be brought by a Contracting Power or the subject or citizen of a Contracting Power.

In the cases mentioned in Article V, the appeal is only admitted when both the owner and the person entitled to represent him are equally Contracting Powers or the subjects or citizens of Contracting Powers.

ARTICLE LII.

The present Convention shall be ratified and the ratifications shall be deposited at The Hague as soon as all the Powers mentioned in Article XV and in the Table annexed are in a position to do so.

The deposit of the ratifications shall take place, in any case, on the 30th June, 1909, if the Powers which are ready to ratify furnish nine Judges and nine Deputy Judges to the Court, qualified to validly constitute a Court. If not, the deposit shall be postponed until this condition is fulfilled.

A Minute of the deposit of ratifications shall be drawn up, of which a certified copy shall be forwarded, through the diplomatic channel, to each of the Powers referred to in the first paragraph.

ARTICLE LIII.

The Powers referred to in Article XV and in the Table annexed are entitled to sign the present Convention up to the deposit of the ratifications contemplated in paragraph 2 of the preceding Article.

After this deposit, they can at any time adhere to it, purely and simply. A Power wishing to adhere, notifies its intention in writing to the Netherland Government transmitting to it, at the same time, the act of adhesion, which shall be deposited in the archives of the said Government. The latter shall send, through the diplomatic channel, a certified copy of the notification and of the act of adhesion to all the Powers referred to in the preceding paragraph, informing them of the date on which it has received the notification.

ARTICLE LIV.

The present Convention shall come into force six months from the deposit of the ratifications contemplated in Article LII, paragraphs 1 and 2.

The adhesions shall take effect sixty days after notification of such adhesion has been received by the Netherland Government, or as soon as possible on the expiration of the period contemplated in the preceding paragraph.

The International Court shall, however, have jurisdiction to deal with prize cases decided by the National Courts at any time after the deposit of the ratifications or of the receipt of the notification of the adhesions. In such cases, the period fixed in Article XXVIII, paragraph 2, shall only be reckoned from the date when the Convention comes into force as regards a Power which has ratified or adhered.

ARTICLE LV.

The present Convention shall remain in force for twelve years from the time it comes into force, as determined by Article LIV, paragraph 1, even in the case of Powers which adhere subsequently.

It shall be renewed tacitly from six years to six years unless denounced.

Denunciation must be notified in writing, at least one year before the expiration of each of the periods mentioned in the two preceding paragraphs, to the Netherland Government, which will inform all the other Contracting Powers.

Denunciation shall only take effect in regard to the Power which has notified it. The Convention shall remain in force in the case of the other Contracting Powers, provided that their participation in the appointment of Judges is sufficient to allow of the composition of the Court with nine Judges and nine Deputy Judges.

ARTICLE LVI.

In case the present Convention is not in operation as regards all the Powers referred to in Article XV and the annexed Table, the Administrative Council shall draw up a list on the lines of that Article and Table of the Judges and Deputy Judges through whom the Contracting Powers will share in the composition of the Court. The times allotted by the said Table to Judges who are summoned to sit in rota will be redistributed between the different years of the six-year period in such a way that, as far as possible, the number of the Judges of the Court in each year shall be the same. If the number of Deputy Judges is greater than that of the Judges, the number of the latter can be completed by Deputy Judges chosen by lot among those Powers which do not nominate a Judge.

The list drawn up in this way by the Administrative Council shall be notified to the Contracting Powers. It shall be revised when the number of these Powers is modified as the result of adhesions or denunciations.

The change resulting from an adhesion is not made until the 1st January after the date on which the adhesion takes effect, unless the adhering Power is a belligerent Power, in which case it can ask to be at once represented in the Court, the provision of Article XVI being, moreover, applicable if necessary.

When the total number of Judges is less than eleven, seven Judges form a quorum.

ARTICLE LVII.

Two years before the expiration of each period referred to in paragraphs 1 and 2 of Article LV any Contracting Power can demand a modification of the provisions of Article XV and of the annexed Table, relative to its participation in the composition of the Court. The demand shall be addressed to the Administrative Council, which will examine it and submit to all the Powers proposals as to the measures to be adopted. The Powers shall inform the Administrative Council of their decision with the least possible delay. The result shall be at once, and at least one year and thirty days before the expiration of the said period of two years, communicated to the Power which made the demand.

When necessary, the modifications adopted by the Powers shall come into force from the commencement of the fresh period.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers designated in Article XV and in the Table annexed.

ANNEX TO ARTICLE XV.

Distribution of Judges and Deputy Judges by Countries for each Year of the period of Six Years.

	Judges.	Deputy Judges	Judges.	Deputy Judges.
	First Year.		*Second Year.*	
1	Argentina	Paraguay.	Argentina	Panamá.
2	Colombia	Bolivia.	Spain	Spain.
3	Spain	Spain.	Greece	Roumania.
4	Greece	Roumania.	Norway	Sweden.
5	Norway	Sweden.	Netherlands	Belgium.
6	Netherlands	Belgium.	Turkey	Luxemburg.
7	Turkey	Persia.	Uruguay	Costa Rica.
	Third Year.		*Fourth Year.*	
1	Brazil	Santo Domingo.	Brazil	Guatemala.
2	China	Turkey.	China	Turkey.
3	Spain	Portugal.	Spain	Portugal.
4	Netherlands	Switzerland.	Peru	Honduras.
5	Roumania	Greece.	Roumania	Greece.
6	Sweden	Denmark.	Sweden	Denmark.
7	Venezuela	Haïti.	Switzerland	Netherlands.
	Fifth Year.		*Sixth Year.*	
1	Belgium	Netherlands.	Belgium	Netherlands.
2	Bulgaria	Montenegro.	Chile	Salvador.
3	Chile	Nicaragua.	Denmark	Norway.
4	Denmark	Norway.	Mexico	Ecuador.
5	Mexico	Cuba.	Portugal	Spain.
6	Persia	China.	Servia	Bulgaria.
7	Portugal	Spain.	Siam	China.

[Executive T, Sixtieth Congress, first session—Confidential.]

FINAL ACT OF THE SECOND INTERNATIONAL PEACE CONFERENCE.

THE FINAL ACT OF THE SECOND INTERNATIONAL PEACE CONFERENCE, AND THE ANNEX ATTACHED THERETO, ADOPTED AT THE HAGUE DURING THE SESSIONS OF THE CONFERENCE.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

The Second International Peace Conference, proposed in the first instance by the President of the United States of America, having been convoked, on the invitation of His Majesty the Emperor of All the Russias, by Her Majesty the Queen of the Netherlands, assembled on the 15th June, 1907, at The Hague, in the Hall of the Knights, for the purpose of giving a fresh development to the humanitarian principles which served as a basis for the work of the First Conference of 1899.

The following Powers took part in the Conference, and appointed the Delegates named below:—

Germany:

His Excellency Baron Marschall de Bieberstein, Minister of State, Imperial Ambassador at Constantinople, First Delegate Plenipotentiary;

M. Kriege, Imperial Envoy on Extraordinary Mission at the present Conference, Privy Councillor of Legation and Legal Adviser to the Ministry for Foreign Affairs, Member of the Permanent Court of Arbitration, Second Delegate Plenipotentiary;

Rear-Admiral Siegel, Naval Attaché to the Imperial Embassy at Paris, Naval Delegate;

Major-General de Gündell, Quarter-Master General of the General Staff of the Royal Prussian Army, Military Delegate;

M. Zorn, Professor to the Faculty of Law at the University of Bonn, Judicial Privy Councillor, Member of the Prussian Upper Chamber, and Crown Syndic, Scientific Delegate;

M. Göppert, Councillor of Legation and Councillor attached to the Department for Foreign Affairs, Assistant Delegate;

M. Retzmann, Lieutenant-Commander on the Naval General Staff, Assistant Naval Delegate.

The United States of America:

His Excellency Mr. Joseph H. Choate, ex-Ambassador at London, Ambassador Extraordinary, Delegate Plenipotentiary;

His Excellency Mr. Horace Porter, ex-Ambassador at Paris, Ambassador Extraordinary, Delegate Plenipotentiary;

His Excellency Mr. Uriah M. Rose, Ambassador Extraordinary, Delegate Plenipotentiary;

His Excellency Mr. David Jayne Hill, ex-Assistant Secretary of State, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

Rear-Admiral Charles S. Sperry, ex-President of the Naval War College, Minister Plenipotentiary, Delegate Plenipotentiary;

Brigadier-General George B. Davis, Judge Advocate-General of the United States' Army, Minister Plenipotentiary, Delegate Plenipotentiary;

Mr. William I. Buchanan, ex-Minister at Buenos Ayres, ex-Minister at Panamá, Minister Plenipotentiary, Delegate Plenipotentiary;

Mr. James Brown Scott, Solicitor for the Department of State, Technical Delegate;

Mr. Charles Henry Butler, Reporter of the Supreme Court, Technical Delegate.

The Argentine Republic:

His Excellency M. Roque Saenz Peña, ex-Minister for Foreign Affairs, Envoy Extraordinary and Minister Plenipotentiary at Rome, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Luis M. Drago, ex-Minister for Foreign Affairs, Deputy, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Carlos Rodríguez Larreta, ex-Minister for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

General Francisco Reynolds, Military Attaché at Berlin, Technical Delegate;

Captain Juan A. Martin, ex-Minister of Marine, Naval Attaché at London, Technical Delegate.

Austria-Hungary:

His Excellency M. Gaëtan Mérey de Kapos-Mére, Privy Councillor of His Imperial and Royal Apostolic Majesty, Ambassador Extraordinary and Plenipotentiary, First Delegate Plenipotentiary;

His Excellency Baron Charles de Macchio, Envoy Extraordinary and Minister Plenipotentiary at Athens, Second Delegate Plenipotentiary;

M. Henri Lammasch, Professor at the University of Vienna, Aulic Councillor, Member of the Austrian Upper Chamber of the Reichsrath, Member of the Permanent Court of Arbitration, Scientific Delegate:

M. Antoine Haus, Rear-Admiral, Naval Delegate:

Baron Wladimir Giesl de Gieslingen, Major-General, Military Plenipotentiary at the Imperial and Royal Embassy at Constantinople and at the Imperial and Royal Legation at Athens, Military Delegate;

The Chevalier Othon de Weil, Aulic and Ministerial Councillor at the Ministry of the Imperial and Royal Household and of Foreign Affairs, Delegate;

M. Jules Szilassy de Szilas et Pilis, Councillor of Legation, Delegate;

M. Emile Konek de Norwall, Naval Lieutenant of the First Class, Delegate Attached.

Belgium:

His Excellency M. A. Beernaert, Minister of State, Member of the Chamber of Representatives, Member of the Institute of France and of the Royal Academies of Belgium

and Roumania, Honorary Member of the Institute of International Law, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. J. van den Heuvel, Minister of State, ex-Minister of Justice, Delegate Plenipotentiary;

His Excellency Baron Guillaume, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Member of the Royal Academy of Roumania, Delegate Plenipotentiary.

Bolivia:

His Excellency M. Claudio Pinilla, Minister for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Fernando E. Guachalla, Minister Plenipotentiary at London, Delegate Plenipotentiary.

Brazil:

His Excellency M. Ruy Barbosa, Ambassador Extraordinary and Plenipotentiary, Vice-President of the Senate, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Eduardo F. S. dos Santos Lisbôa, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

Colonel Roberto Trompowsky Leitâo de Almeida, Military Attaché at The Hague, Technical Delegate;

Commander Tancredo Burlamaqui de Moura, Technical Delegate.

Bulgaria:

Major-General on the Staff Vrban Vinaroff, General *à la suite*, First Delegate Plenipotentiary;

M. Ivan Karandjouloff, Procureur-Général of the Court of Cassation, Second Delegate Plenipotentiary;

Commander S. Dimitrieff, Chief of the Staff of the Bulgarian Flotilla, Delegate.

Chile:

His Excellency M. Domingo Gana, Envoy Extraordinary and Minister Plenipotentiary at London, Delegate Plenipotentiary;

His Excellency M. Augusto Matte, Envoy Extraordinary and Minister Plenipotentiary at Berlin, Delegate Plenipotentiary;

His Excellency M. Carlos Concha, ex-Minister of War, ex-President of the Chamber of Deputies, ex-Envoy Extraordinary and Minister Plenipotentiary at Buenos Ayres, Delegate Plenipotentiary.

China:

His Excellency Mr. Lu Tsêng-Tsiang, Ambassador Extraordinary, Delegate Plenipotentiary;

His Excellency the Honourable John W. Foster, ex-Secretary of State at the United States' Department for Foreign Affairs, Delegate Plenipotentiary;

His Excellency Mr. Tsien-Sun, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

Colonel W. S. Y. Tinge, Judge Advocate-General at the War Office, Military Delegate;

Mr. Chang Ching Tong, Secretary of Legation, Assistant Delegate;

Mr. Chao-Hi-Chiu, ex-Secretary of the Imperial Chinese Mission and Legation at Paris and Rome, Assistant Delegate.

Colombia:

General Jorge Holguin, Delegate Plenipotentiary;

M. Santiago Perez Triana, Delegate Plenipotentiary;

His Excellency General M. Vargas, Envoy Extraordinary and Minister Plenipotentiary at Paris, Delegate Plenipotentiary.

The Republic of Cuba:

M. Antonio Sanchez de Bustamante, Professor of International Law at the University of Havana, Senator of the Republic, Delegate Plenipotentiary;

His Excellency M. Gonzalo de Quesada y Arostégui, Envoy Extraordinary and Minister Plenipotentiary at Washington, Delegate Plenipotentiary;

M. Manuel Sanguily, ex-Director of the Institute of Secondary Education at Havana, Senator of the Republic, Delegate Plenipotentiary.

Denmark:

His Excellency M. C. Brun, Envoy Extraordinary and Minister Plenipotentiary at Washington, First Delegate Plenipotentiary;

Rear-Admiral C. F. Scheller Second Delegate Plenipotentiary;

M. A. Vedel, Chamberlain, Head of Department at the Royal Ministry for Foreign Affairs, Third Delegate Plenipotentiary.

The Dominican Republic:

M. Francisco Henriquez i Carvajal, ex-Minister for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

M. Apolinar Tejera, Rector of the Professional Institute of Santo Domingo, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary.

The Republic of the Ecuador:

His Excellency M. Victor Rendón, Envoy Extraordinary and Minister Plenipotentiary at Paris and Madrid, Delegate Plenipotentiary;

M. Enrique Dorn y de Alsua, Chargé d'Affaires, Delegate Plenipotentiary.

Spain:

His Excellency M. W. R. De Villa-Urrutia, Senator, ex-Minister for Foreign Affairs, Ambassador Extraordinary and Plenipotentiary at London, First Delegate Plenipotentiary;

His Excellency M. José de la Rica y Calvo, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

M. Gabriel Maura y Gamazo, Count de la Mortera, Deputy to the Cortes, Delegate Plenipotentiary;

M. J. Jofre Montojo, Colonel on the Staff, Aide-de-camp to the Minister of War, Assistant Military Delegate;

Captain Francisco Chacon, Assistant Naval Delegate.

France:

His Excellency M. Léon Bourgeois, Ambassador Extraordinary, Senator, ex-President of the Council, ex-Minister

for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate, First Plenipotentiary;

Baron d'Estournelles de Constant, Senator, Minister Plenipotentiary of the First Class, Member of the Permanent Court of Arbitration, Delegate, Second Plenipotentiary;

M. Louis Renault, Professor at the Faculty of Law at Paris, Honorary Minister Plenipotentiary, Legal Adviser to the Ministry for Foreign Affairs, Member of the Institute, Member of the Permanent Court of Arbitration, Delegate, Third Plenipotentiary;

His Excellency M. Marcellin Pellet, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate, Fourth Plenipotentiary;

General of Division Amourel, Military Delegate;

Rear-Admiral Arago, Naval Delegate;

M. Fromageot, Advocate at the Court of Appeal at Paris, Technical Delegate;

Captain Lacaze, Second Naval Delegate;

Lieutenant-Colonel Siben, Military Attaché at Brussels and The Hague, Second Military Delegate.

Great Britain:

His Excellency the Right Honourable Sir Edward Fry, G. C. B., Member of the Privy Council, Ambassador Extraordinary, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency the Right Honorable Sir Ernest Mason Satow, G.C.M.G., Member of the Privy Council, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency the Right Honorable Lord Reay, G.C.S.I., G.C.I.E., Member of the Privy Council, ex-President of the Institute of International Law, Delegate Plenipotentiary.

His Excellency Sir Henry Howard, K.C.M.G., C.B., Envoy Extraordinary and Minister Plenipotentiary at The Hague Delegate Plenipotentiary;

Lieutenant-General Sir Edmond R. Elles, G.C.I.E., K.C.B., Military Delegate;

Captain C. L. Ottley, M.V.O., R.N., A.D.C., Naval Delegate;

Mr. Eyre Crowe, Councillor of Embassy, Technical Delegate, First Secretary to the delegation;

Mr. Cecil Hurst, Councillor of Embassy, Technical Delegate Legal Adviser to the delegation;

Lieutenant-Colonel the Honourable Henry Yarde-Buller, D.S.O., Military Attaché at The Hague, Technical Delegate;

Commander J. R. Segrave, R.N., Technical Delegate;

Major George K. Cockerill, General Staff, Technical Delegate.

Greece:

His Excellency M. Cléon Rizo Rangabé, Envoy Extraordinary and Minister Plenipotentiary at Berlin, First Delegate Plenipotentiary;

M. Georges Streit, Professor of International Law at the University of Athens, Member of the Permanent Court of Arbitration, Second Delegate Plenipotentiary;

Colonel of Artillery C. Sapountzakis, Chief of the General Staff, Technical Delegate.

Guatemala:

M. José Tible Machado, Chargé d'Affaires at The Hague and London, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

M. Enrique Gomez Carrillo, Chargé d'Affaires at Berlin, Delegate Plenipotentiary.

The Republic of Haïti:

His Excellency M. Jean Joseph Dalbémar, Envoy Extraordinary and Minister Plenipotentiary at Paris, Delegate Plenipotentiary;

His Excellency M. J. N. Léger, Envoy Extraordinary and Minister Plenipotentiary at Washington, Delegate Plenipotentiary;

M. Pierre Hudicourt, ex-Professor of International Public Law, Advocate at the Bar of Port-au-Prince, Delegate Plenipotentiary.

Italy:

His Excellency Count Joseph Tornielli Brusati di Vergano, Senator of the Kingdom, Ambassador of His Majesty the King at Paris, Member of the Permanent Court of Arbi-

tration, President of the Italian delegation, Delegate Plenipotentiary;

His Excellency M. Guido Pompilj, Parliamentary Deputy, Under-Secretary of State at the Royal Ministry for Foreign Affairs, Delegate Plenipotentiary;

M. Guido Fusinato, Councillor of State, Parliamentary Deputy, ex-Minister of Education, Delegate Plenipotentiary;

M. Marius Nicolis de Robilant, General of Brigade, Technical Delegate;

M. François Castiglia, Captain in the Navy, Technical Delegate.

Japan:

His Excellency Mr. Keiroku Tsudzuki, Ambassador Extraordinary and Plenipotentiary, First Delegate Plenipotentiary;

His Excellency Mr. Aimaro Sato, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Second Delegate Plenipotentiary;

Mr. Henry Willard Denison, Legal Adviser to the Imperial Ministry for Foreign Affairs, Member of the Permanent Court of Arbitration, Technical Delegate;

Major-General Yoshifuru Akiyama, Inspector of Cavalry, Technical Delegate;

Rear-Admiral Hayao Shimamura, President of the Naval College at Etajima, Technical Delegate.

Luxemburg:

His Excellency M. Eyschen, Minister of State, President of the Grand-Ducal Government, Delegate Plenipotentiary;

Count de Villiers, Chargé d'Affaires at Berlin, Delegate Plenipotentiary.

Mexico:

His Excellency M. Gonzalo A. Esteva, Envoy Extraordinary and Minister Plenipotentiary at Rome, First Delegate Plenipotentiary;

His Excellency M. Sebastian B. de Mier, Envoy Extraordinary and Minister Plenipotentiary at Paris, Second Delegate Plenipotentiary;

His Excellency M. Francisco L. de la Barra, Envoy Extraordinary and Minister Plenipotentiary at Brussels and at The Hague, Third Delegate Plenipotentiary.

Montenegro:

His Excellency M. Nélidow, Privy Councillor, Russian Ambassador at Paris, Delegate Plenipotentiary;

His Excellency M. de Martens, Privy Councillor, Permanent Member of the Council of the Imperial Russian Ministry for Foreign Affairs, Delegate Plenipotentiary;

His Excellency M. Tcharykow, Councillor of State, Chamberlain, Envoy Extraordinary and Minister Plenipotentiary of Russia at The Hague, Delegate Plenipotentiary.

Nicaragua:

His Excellency M. Crisanto Medina, Envoy Extraordinary and Minister Plenipotentiary at Paris, Delegate Plenipotentiary.

Norway:

His Excellency M. Francis Hagerup, ex-President of the Council, ex-Professor of Law, Member of the Permanent Court of Arbitration, Envoy Extraordinary and Minister Plenipotentiary at The Hague and Copenhagen, Delegate Plenipotentiary;

M. Joachim Grieg, Shipowner and Deputy, Technical Delegate.

M. Christian Lous Lange, Secretary to the Nobel Committee of the Norwegian Storthing, Technical Delegate.

Panamá:

M. Belisario Porras, Delegate Plenipotentiary.

Paraguay:

His Excellency M. Eusebio Machain, Envoy Extraordinary and Minister Plenipotentiary at Paris, Delegate Plenipotentiary.

The Netherlands:

M. W. H. de Beaufort, ex-Minister for Foreign Affairs, Member of the Second Chamber of the States-General, Delegate Plenipotentiary;

His Excellency M. T. M. C. Asser, Minister of State, Member of the Council of State, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency Jonkheer J. C. C. Den Beer Poortugael, Lieutenant-General on the retired list, ex-Minister of War, Member of the Council of State, Delegate Plenipotentiary;

His Excellency Jonkheer J. A. Röell, Aide-de-camp to Her Majesty the Queen in Extraordinary Service, Vice-Admiral on the retired list, ex-Minister of Marine, Delegate Plenipotentiary;

M. J. A. Loeff, ex-Minister of Justice, Member of the Second Chamber of the States-General, Delegate Plenipotentiary;

M. H. L. van Oordt, Lieutenant-Colonel on the Staff, Professor at the Higher Military College, Technical Delegate;

M. Jonkheer W. J. M. van Eysinga, Head of the Political Section at the Ministry for Foreign Affairs, Assistant Delegate;

M. Jonkheer H. A. van Karnebeek, Gentleman of the Chamber, Assistant Head of Department at the Colonial Office, Assistant Delegate;

M. H. G. Surie, Naval Lieutenant of the First Class, Technical Delegate.

Peru:

His Excellency M. Carlos G. Candamo, Envoy Extraordinary and Minister Plenipotentiary at Paris and London, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

M. Gustavo de la Fuente, First Secretary of Legation at Paris, Assistant Delegate.

Persia:

His Excellency Samad Khan Momtas-es-Saltaneh, Envoy Extraordinary and Minister Plenipotentiary at Paris, Member of the Permanent Court of Arbitration, Delegate, First Plenipotentiary;

His Excellency Mirza Ahmed Khan Sadig-ul-Mulkh, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

M. Hennebicq, Legal Adviser to the Minister for Foreign Affairs at Tehran, Technical Delegate.

Portugal:

His Excellency the Marquis de Soveral, Councillor of State, Peer of the Realm, ex-Minister for Foreign Affairs, Envoy

Extraordinary and Minister Plenipotentiary at London, Ambassador Extraordinary and Plenipotentiary, Delegate Plenipotentiary;

His Excellency Count de Sélir, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

His Excellency M. Alberto d'Oliveira, Envoy Extraordinary and Minister Plenipotentiary at Berne, Delegate Plenipotentiary;

Lieutenant-Colonel Thomaz Antonio Garcia Rosado, General Staff, Technical Delegate;

M. Guilherme Ivens Ferraz, Lieutenant-Commander in the Navy, Technical Delegate.

Roumania:

His Excellency M. Alexandre Beldiman, Envoy Extraordinary and Minister Plenipotentiary at Berlin, First Delegate Plenipotentiary;

His Excellency M. Edgard Mavrocordato, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Second Delegate Plenipotentiary;

Captain Alexander Sturdza, General Staff, Technical Delegate.

Russia:

His Excellency M. Nélidow, Privy Councillor, Russian Ambassador at Paris, Delegate Plenipotentiary;

His Excellency M. de Martens, Privy Councillor, Permanent Member of the Council of the Imperial Ministry for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Tcharykow, Councillor of State, Chamberlain, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

M. Prozor, Councillor of State, Chamberlain, Russian Minister at Rio de Janeiro, Technical Delegate;

Major-General Yermolow, Military Attaché at London, Technical Delegate;

Colonel Michelson, Military Attaché at Berlin, Technical Delegate;

Captain Behr, Naval Attaché at London, Technical Delegate;

Colonel Ovtchinnikow, of the Admiralty, Professor of International Law at the Naval Academy, Technical Delegate.

Salvador:

M. Pedro J. Matheu, Chargé d'Affaires at Paris, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

M. Santiago Perez Triana, Chargé d'Affaires at London, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary.

Servia:

His Excellency General Sava Grouïtch, President of the Council of State, Delegate Plenipotentiary;

His Excellency M. Milovan Milovanovitch, Envoy Extraordinary and Minister Plenipotentiary at Rome, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Michel Militchévitch, Envoy Extraordinary and Minister Plenipotentiary at London and The Hague, Delegate Plenipotentiary.

Siam:

Major-General Mom Chatidej Udom, Delegate Plenipotentiary;

M. Corragioni d'Orelli, Councillor of Legation at Paris, Delegate Plenipotentiary;

Captain Luang Bhuvanarth Narübal. Delegate Plenipotentiary.

Sweden:

His Excellency M. Knut Hjalmar Leonard de Hammarskjöld, Envoy Extraordinary and Minister Plenipotentiary at Copenhagen, ex-Minister of Justice, Member of the Permanent Court of Arbitration, First Delegate Plenipotentiary;

M. Johannes Hellner, ex-Minister without Portfolio, ex-Member of the Supreme Court of Sweden, Member of the Permanent Court of Arbitration, Second Delegate Plenipotentiary;

Colonel David Hedengren, Commanding a Regiment of Artillery, Technical Delegate;

Commander Gustaf de Klint, Head of a Section on the Staff of the Royal Navy, Technical Delegate.

Switzerland:

His Excellency M. Gaston Carlin, Envoy Extraordinary and Minister Plenipotentiary at London and The Hague, Delegate Plenipotentiary;

M. Eugène Borel, Colonel on the General Staff, Professor at the University of Geneva, Delegate Plenipotentiary;

M. Max Huber, Professor of Law at the University of Zurich, Delegate Plenipotentiary.

Turkey:

His Excellency Turkhan Pasha, Ambassador Extraordinary, Minister of the Evkaf, First Delegate Plenipotentiary;

His Excellency Rechid Bey, Turkish Ambassador at Rome, Delegate Plenipotentiary;

His Excellency Vice-Admiral Mehemmed Pasha, Delegate Plenipotentiary;

Raïf Bey, Legal Adviser on the Civil List, Assistant Delegate;

Colonel on the Staff Mehemmed Saïd Bey, Assistant Delegate.

Uruguay:

M. José Batlle y Ordonez, ex-President of the Republic, Member of the Permanent Court of Arbitration, First Delegate Plenipotentiary;

His Excellency M. Juan P. Castro, ex-President of the Senate, Envoy Extraordinary and Minister Plenipotentiary at Paris, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

Colonel Sebastian Buquet, Commanding a Regiment of Field Artillery, Technical Delegate.

The United States of Venezuela:

M. José Gil Fortoul, Chargé d'Affaires at Berlin, Delegate Plenipotentiary.

At a series of meetings, held from the 15th June to the 18th October, 1907, in which the above Delegates were throughout animated by the desire to realize, in the fullest possible measure,

the generous views of the august initiator of the Conference and the intentions of their Governments, the Conference drew up for submission for signature by the Plenipotentiaries, the text of the Conventions and of the Declaration enumerated below and annexed to the present Act:—

1. Convention for the Pacific Settlement of International Disputes.
2. Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts.
3. Convention relative to the Opening of Hostilities.
4. Convention respecting the Laws and Customs of War on Land.
5. Convention respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land.
6. Convention relative to the Status of Enemy Merchant-ships at the Outbreak of Hostilities.
7. Convention relative to the Conversion of Merchant-ships into War-ships.
8. Convention relative to the Laying of Automatic Submarine Contact Mines.
9. Convention respecting Bombardment by Naval Forces in Time of War.
10. Convention for the Adaptation to Naval War of the Principles of the Geneva Convention.
11. Convention relative to certain Restrictions with regard to the Exercise of the Right of Capture in Naval War.
12. Convention relative to the creation of an International Prize Court.
13. Convention concerning the Rights and Duties of Neutral Powers in Naval War.
14. Declaration prohibiting the discharge of Projectiles and Explosives from Balloons.

These Conventions and Declaration shall form so many separate Acts. These Acts shall be dated this day, and may be signed up to the 30th June, 1908, at The Hague, by the Plenipotentiaries of the Powers represented at the Second Peace Conference.

The Conference, actuated by the spirit of mutual agreement and concession characterizing its deliberations, has agreed upon the following Declaration, which, while reserving to each of the Powers represented full liberty of action as regards voting, enables them to affirm the principles which they regard as unanimously admitted:—

It is unanimous—

1. In admitting the principle of compulsory arbitration.
2. In declaring that certain disputes, in particular those relating to the interpretation and application of the provisions of International Agreements, may be submitted to compulsory arbitration without any restriction.

Finally, it is unanimous in proclaiming that, although it has not yet been found feasible to conclude a Convention in this sense, nevertheless the divergences of opinion which havcome to light have not exceeded the bounds of judicial controversy, and that, by working together here during the past four months, the collected Powers not only have learnt to understand one another and to draw closer together, but have succeeded in the course of this long collaboration in evolving a very lofty conception of the common welfare of humanity.

The Conference has further unanimously adopted the following Resolution:—

The Second Peace Conference confirms the Resolution adopted by the Conference of 1899 in regard to the limitation of military expenditure; and inasmuch as military expenditure has considerably increased in almost every country since that time, the Conference declares that it is eminently desirable that the Governments should resume the serious examination of this question.

It has besides expressed the following opinions:—

1. The Conference calls the attention of the Signatory Powers to the advisability of adopting the annexed draft Convention for the creation of a Judicial Arbitration Court, and of bringing it into force as soon as an agreement has been reached respecting the selection of the Judges and the constitution of the Court.

2. The Conference expresses the opinion that, in case of war, the responsible authorities, civil as well as military, should make it their special duty to ensure and safeguard the maintenance of pacific relations, more especially of the commercial and industrial relations between the inhabitants of the belligerent States and neutral countries.

3. The Conference expresses the opinion that the Powers should regulate, by special Treaties, the position, as regards military charges, of foreigners residing within their territories.

4. The Conference expresses the opinion that the preparation of regulations relative to the laws and customs of naval war should figure in the programme of the next Conference, and that in any case the Powers may apply, as far as possible, to war by sea the principles of the Convention relative to the Laws and Customs of War on land.

Finally, the Conference recommends to the Powers the assembly of a Third Peace Conference, which might be held within a period corresponding to that which has elapsed since the preceding Conference, at a date to be fixed by common agreement between the Powers, and it calls their attention to the necessity of preparing the programme of this Third Conference a sufficient time in advance to ensure its deliberations being conducted with the necessary authority and expedition.

In order to attain this object the Conference considers that it would be very desirable that, some two years before the probable date of the meeting, a preparatory Committee should be charged by the Governments with the task of collecting the various proposals to be submitted to the Conference, of ascertaining what subjects are ripe for embodiment in an International Regulation, and of preparing a programme which the Governments should decide upon in sufficient time to enable it to be carefully examined by the countries interested. This Committee should further be intrusted with the task of proposing a system of organization and procedure for the Conference itself.

In faith whereof the Plenipotentiaries have signed the present Act and have affixed their seals thereto.*

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent to all the Powers represented at the Conference.

Annex to the First Opinion expressed by the Second Peace Conference.

Draft Convention relative to the Creation of a Judicial Arbitration Court.

Part I.—*Constitution of the Judicial Arbitration Court.*

Article I.

With a view to promoting the cause of arbitration, the Contracting Powers agree to constitute, without altering the status of the Permanent Court of Arbitration, a Judicial Arbitration Court, of free and easy access, composed of Judges representing the various juridical systems of the world, and capable of insuring continuity in jurisprudence of arbitration.

Article II.

The Judicial Arbitration Court is composed of Judges and Deputy Judges chosen from persons of the highest moral reputation, and all fulfilling conditions qualifying them, in their respective countries, to occupy high legal posts, or be jurists of recognized competence in matters of international law.

The Judges and Deputy Judges of the Court are appointed, as far as possible, from the members of the Permanent Court of Arbitration. The appointment shall be made within the six months following the ratification of the present Convention.

Article III.

The Judges and Deputy Judges are appointed for a period of twelve years, counting from the date on which the appointment is notified to the Administrative Council created by the Convention for the Pacific Settlement of International Disputes. Their appointments can be renewed.

Should a Judge or Deputy Judge die or retire, the vacancy is filled in the manner in which his appointment was made. In this case, the appointment is made for a fresh period of twelve years.

ARTICLE IV.

The Judges of the Judicial Arbitration Court are equal and rank according to the date on which their appointment was notified. The Judge who is senior in point of age takes precedence when the date of notification is the same.

The Deputy Judges are assimilated, in the exercise of their functions, with the Judges. They rank, however, below the latter.

ARTICLE V.

The Judges enjoy diplomatic privileges and immunities in the exercise of their functions, outside their own country.

Before taking their seat, the Judges and Deputy Judges must swear, before the Administrative Council, or make a solemn affirmation to exercise their functions impartially and conscientiously.

ARTICLE VI.

The Court annually nominates three Judges to form a special delegation and three more to replace them should the necessity arise. They may be re-elected. They are balloted for. The persons who secure the largest number of votes are considered elected. The delegation itself elects its President, who, in default of a majority, is appointed by lot.

A member of the delegation cannot exercise his duties when the Power which appointed him, or of which he is a national, is one of the parties.

The members of the delegation are to conclude all matters submitted to them, even if the period for which they have been appointed Judges has expired.

ARTICLE VII.

A Judge may not exercise his judicial functions in any case in which he has, in any way whatever, taken part in the decision of a National Tribunal, of a Tribunal of Arbitration, or of a Commission of Inquiry, or has figured in the suit as counsel or advocate for one of the parties.

A Judge cannot act as agent or advocate before the Judicial Arbitration Court or the Permanent Court of Arbitration, before a Special Tribunal of Arbitration or a Commission of Inquiry, nor act for one of the parties in any capacity whatsoever so long as his appointment lasts.

ARTICLE VIII.

The Court elects its President and Vice-President by an absolute majority of the votes cast. After two ballots, the election is made by a bare majority and, in case the votes are even, by lot.

ARTICLE IX.

The Judges of the Judicial Arbitration Court receive an annual salary of 6,000 Netherland florins. This salary is paid at the end of each half-year, reckoned from the date on which the Court meets for the first time.

In the exercise of their duties during the sessions or in the special cases covered by the present Convention, they receive the sum of 100 florins per diem. They are further entitled to receive a travelling allowance fixed in accordance with Regulations existing in their own country. The provisions of the present paragraph are applicable also to a Deputy Judge when acting for a Judge.

These emoluments are included in the general expenses of the Court dealt with in Article XXXI, and are paid through the International Bureau created by the Convention for the Pacific Settlement of International Disputes.

ARTICLE X.

The Judges may not accept from their own Government or from that of any other Power any remuneration for services connected with their duties in their capacity of members of the Court.

ARTICLE XI.

The seat of the Judicial Court of Arbitration is at The Hague, and cannot be transferred, unless absolutely obliged by circumstances, elsewhere.

The delegation may choose, with the assent of the parties concerned, another site for its meetings, if special circumstances render such a step necessary.

ARTICLE XII.

The Administrative Council fulfils with regard to the Judicial Court of Arbitration the same functions as to the Permanent Court of Arbitration.

ARTICLE XIII.

The International Bureau acts as registry to the Judicial Court of Arbitration, and must place its offices and staff at the disposal of the Court. It has charge of the archives and carries out the administrative work.

The Secretary-General of the Bureau discharges the functions of Registrar.

The necessary secretaries to assist the Registrar, translators and shorthand writers are appointed and sworn in by the Court.

ARTICLE XIV.

The Court meets in session once a year. The session opens the third Wednesday in June and lasts until all the business on the agenda has been transacted.

The Court does not meet in session if the delegation considers that such meeting is unnecessary. However, when a Power is party in a case actually pending before the Court, the pleadings in which are closed, or about to be closed, it may insist that the session should be held.

When necessary, the delegation may summon the Court in extraordinary session.

ARTICLE XV.

A Report of the doings of the Court shall be drawn up every year by the delegation. This Report shall be forwarded to the Contracting Powers through the International Bureau. It shall also be communicated to the Judges and Deputy Judges of the Court.

ARTICLE XVI.

The Judges and Deputy Judges, members of the Judicial Arbitration Court, can also exercise the functions of Judge and Deputy Judge in the International Prize Court.

PART II.—*Competency and Procedure.*

ARTICLE XVII.

The Judicial Court of Arbitration is competent to deal with all cases submitted to it, in virtue either of a general undertaking to have recourse to arbitration or of a special agreement.

Article XVIII.

The delegation is competent—

1. To decide the arbitrations referred to in the preceding Article, if the parties concerned are agreed that the summary procedure, laid down in Part IV, Chapter IV, of the Convention for the Pacific Settlement of International Disputes is to be applied;
2. To hold an inquiry under and in accordance with Part III of the said Convention, in so far as the delegation is intrusted with such inquiry by the parties acting in common agreement. With the assent of the parties concerned, and as an exception to Article VII, paragraph 1, the members of the delegation who have taken part in the inquiry may sit as Judges, if the case in dispute is submitted to the arbitration of the Court or of the delegation itself.

Article XIX.

The delegation is also competent to settle the *Compromis* referred to in Article LII of the Convention for the Pacific Settlement of International Disputes if the parties are agreed to leave it to the Court.

It is equally competent to do so, even when the request is only made by one of the parties concerned, if all attempts have failed to reach an understanding through the diplomatic channel, in the case of—

1. A dispute covered by a general Treaty of Arbitration concluded or renewed after the present Convention has come into force, providing for a *Compromis* in all disputes, and not either explicitly or implicitly excluding the settlement of the *Compromis* from the competence of the delegation. Recourse cannot, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of questions to be submitted to compulsory arbitration, unless the Treaty of Arbitration confers upon the Arbitration Tribunal the power of deciding this preliminary question.
2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and

for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the *Compromis* should be settled in some other way.

ARTICLE XX.

Each of the parties concerned may nominate a Judge of the Court to take part, with power to vote, in the examination of the case submitted to the delegation.

If the delegation acts as a Commission of Enquiry, this task may be intrusted to persons other than the Judges of the Court. The travelling expenses and remuneration to be given to the said persons are fixed and borne by the Powers appointing them.

ARTICLE XXI.

The Contracting Powers only may have access to the Judicial Arbitration Court set up by the present Convention.

ARTICLE XXII.

The Judicial Court of Arbitration follows the rules of procedure laid down in the Convention for the Pacific Settlement of International Disputes, except in so far as the procedure is laid down in the present Convention.

ARTICLE XXIII.

The Court determines what language it will itself use and what languages may be used before it.

ARTICLE XXIV.

The International Bureau serves as channel for all communications to be made to the Judges during the interchange of pleadings provided for in Article LXIII, paragraph 2, of the Convention for the Pacific Settlement of International Disputes.

ARTICLE XXV.

For all notices to be served, in particular on the parties, witnesses, or experts, the Court may apply direct to the Government of the State on whose territory the service is to be carried out. The same rule applies in the case of steps being taken to procure evidence.

The requests addressed for this purpose can only be rejected when the Power applied to considers them likely to impair its sovereign rights or its safety. If the request is complied with,

the fees charged must only comprise the expenses actually incurred.

The Court is equally entitled to act through the Power on whose territory it sits.

Notices to be given to parties in the place where the Court sits may be served through the International Bureau.

ARTICLE XXVI.

The discussions are under the control of the President or Vice-President, or, in case they are absent or cannot act, of the senior Judge present.

The Judge appointed by one of the parties cannot preside.

ARTICLE XXVII.

The Court considers its decisions in private, and the proceedings are secret.

All decisions are arrived at by a majority of the Judges present. If the number of Judges is even and equally divided, the vote of the junior Judge, in the order of precedence laid down in Article IV, paragraph 1, is not counted.

ARTICLE XXVIII.

The judgment of the Court must give the reasons on which it is based. It contains the names of the Judges taking part in it; it is signed by the President and Registrar.

ARTICLE XXIX.

Each party pays its own costs and an equal share of the costs of the trial.

ARTICLE XXX.

The provisions of Articles XXI to XXIX are applicable by analogy to the procedure before the delegation.

When the right of attaching a member to the delegation has been exercised by one of the parties only, the vote of the member attached is not recorded if the votes are evenly divided.

ARTICLE XXXI.

The general expenses of the Court are borne by the Contracting Powers.

The Administrative Council applies to the Powers to obtain the funds requisite for the working of the Court.

Article XXXII.

The Court itself draws up its own rules of procedure, which must be communicated to the Contracting Powers.

After the ratification of the present Convention the Court shall meet as early as possible in order to elaborate these rules, elect the President and Vice-President, and appoint the members of the delegation.

Article XXXIII.

The Court may propose modifications in the provisions of the present Convention concerning procedure. These proposals are communicated through the Netherland Government to the Contracting Powers, which will consider together as to the measures to be taken.

Part III.—*Final Provisions.*

Article XXXIV.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

A *procès-verbal* of the deposit of each ratification shall be drawn up, of which a duly certified copy shall be sent through the diplomatic channel to all the Signatory Powers.

Article XXXV.

The Convention shall come into force six months after its ratification.

It shall remain in force for twelve years, and shall be tacitly renewed for periods of twelve years, unless denounced.

The denunciation must be notified, at least two years before the expiration of each period, to the Netherland Government, which will inform the other Powers.

The denunciation shall only have effect in regard to the notifying Power. The Convention shall continue in force as far as the other Powers are concerned.

[Executive V, Sixtieth Congress, first session—Confidential.]

SIGNATURES TO THE HAGUE CONVENTIONS OF 1907.

TABLE OF SIGNATURES APPENDED TO THE HAGUE CONFERENCE CONVENTIONS OF 1907, AND ALSO OF THE RESERVATIONS MADE.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

Table of Signatures Appended to the Hague Conference

[S=signed. R=reserved.]

	I. Convention for the pacific settlement of international controversies. (Ex. F.)	II. Convention concerning the limitation of the employment of force for the recovery of contract debts. (Ex. G.)	III. Convention relating to the opening of hostilities. (Ex. H.)	IV. Convention concerning the laws and customs of war on land. (Ex. I.)	V. Convention concerning the rights and duties of neutral powers and persons in case of war on land. (Ex. J.)	VI. Convention relating to the treatment of hostile merchant vessels at the beginning of hostilities. (Ex. K.)	VII. Convention relating to the transformation of merchant vessels into war vessels. (Ex L.)
1. Germany							
2. United States of America.	S R	S	S	S	S		
3. Argentina	S	S R	S	S	S R	S	S
4. Austria-Hungary							
5. Belgium	S		S	S	S	S	S
6. Bolivia	S	S R	S	S	S	S	S
7. Brazil	S R		S	S	S	S	S
8. Bulgaria	S	S	S	S	S	S	S
9. Chile	S R	S	S	S	S	S	S
10. China							
11. Colombia	S	S R	S	S	S	S	S
12. Cuba	S	S	S	S	S	S	S
13. Denmark	S	S	S	S	S	S	S
14. Dominican Republic	S	S R	S	S	S	S	
15. Ecuador							
16. Spain	S	S	S		S	S	S
17. France	S	S	S	S	S	S	S
18. Great Britain							
19. Greece	S R	S R	S	S	S	S	S
20. Guatemala	S	S R	S	S	S	S	S
21. Haiti	S	S	S	S	S	S	S
22. Italy							
23. Japan							
24. Luxembourg	S		S	S	S	S	S
25. Mexico	S	S	S	S	S	S	S
26. Montenegro	S	S	S	S R	S	S	S
27. Nicaragua							
28. Norway	S	S	S	S	S	S	S
29. Panama	S	S	S	S	S	S	S
30. Paraguay							
31. Netherlands	S	S	S	S	S	S	S
32. Peru	S	S R	S	S	S	S	S

Convention of 1907, and also of the Reservations Made.

[S=signed. R=reserved.]

VIII. Convention relating to the laying of automatic submarine contact mines. (Ex. M.)	IX. Convention concerning bombardment by naval forces in time of war. (Ex. N.)	X. Convention for the adaptation of the principles of the Geneva Convention to maritime warfare. (Ex. O.)	XI. Convention relating to certain restrictions in the exercise of the right of capture in maritime war. (Ex. P.)	XII. Convention relative to the establishment of an International Prize Court. (Ex. Q.)	XIII. Convention concerning the rights and duties of neutral powers in case of maritime war. (Ex. R.)	XIV. Declaration relative to prohibiting the throwing down of projectiles and explosives from balloons. (Ex. S.)	XV. The final act. (Ex. T.)
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S	S	S	S	S	S	S	S
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S	S	S	S	S	S	S	S
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33. Persia	S	S	S	S	S	S	S
34. Portugal	S	S	.....	S	S	.....	S
35. Roumania	.....	.....	.....	S	.....	.....	.....
36. Russia	S	S	S	S R	S	S R	S
37. Salvador	S	S R	S	S	S	S	S
38. Servia	S	S	S	S	S	S	S
39. Siam	S	.....	S	S	S	S	S
40. Sweden	.....	.....	S	S	S	S	S
41. Switzerland	.....	.....	.....	.....	.....	.....	.....
42. Turkey	.....	.....	.....	.....	.....	.....	.....
43. Uruguay	S	S R	S	S	S	S	.....
44. Venezuela	S	.....	S	S	S	S	S

tions of 1907, and also of the Reservations Made—Continued.

VIII. Convention relating to the laying of automatic submarine contact mines. Ex. M.	IX. Convention concerning bombardment by naval forces in time of war. Ex. N.	X. Convention for the adaptation of the principles of the Geneva Convention to maritime warfare. Ex. O.	XI. Convention relating to certain restrictions in the exercise of the right of capture in maritime war. Ex. P.	XII. Convention relative to the establishment of an International Prize Court. Ex. Q.	XIII. Convention concerning the rights and duties of neutral powers in case of maritime war. Ex. R.	XIV. Declaration relative to prohibiting the throwing down of projectiles and explosives from balloons. Ex. S.	XV. The final act. Ex. T.
S	S	S R	S	S R	S R	S	S
.....	.....	S	S	.....	.....	S	S
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.....	S	S	.....	.....	S	.....	S
S	S	S	S	S R	S	S	S
S	S	S	S	.....	S	.....	S
S R	S	S	S	S R	S R	S	S
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.....	.....	.....	.....	.....	.....	.....	.....
S	S	S	S	S R	S	S	S
S	S	S	S	.....	S	.....	S

RESERVATIONS.

I. America.—Under reservation of the declaration made in the plenary session of the Conference of October 16, 1907.

Brazil.—With reservation as to article 53, paragraphs 2, 3, and 4.

Chile.—Under reservation of the Declaration formulated with regard to article 39 in the seventh session of October 7 of the First Commission.

Greece.—With reservation of paragraph 2 of article 53.

II. Argentina.—The Argentine Republic makes the following reservations:

1. With regard to debts arising from ordinary contracts between the citizen or subject of a nation and a foreign government, recourse shall not be had to arbitration except in the specific case of a denial of justice by the courts of the country where the contract was made, the remedies before which courts must first have been exhausted.
2. Public loans, secured by bond issues and constituting the national debt, shall in no case give rise to military aggression or the material occupation of the soil of American nations.

Bolivia.—With the reservation stated to the First Commission.

Colombia.—Colombia makes the following reservations: She does not agree to the employment of force in any case for the recovery of debts, whatever be their nature. She accepts arbitration only after a final decision has been rendered by the courts of the debtor nations.

Dominican Republic.—With the reservation made at the plenary session of October 16, 1907.

Greece.—With the reservation made at the plenary session of October 16, 1907.

Guatemala.—1. With regard to debts arising from ordinary contracts between the citizens or subjects of a nation and a foreign government, recourse shall be had to arbitration only in case of a denial of justice by the courts of the country where the contract was made, the remedies before which courts must first have been exhausted.

2. Public loans secured by bond issues and constituting national debts shall in no case give rise to military aggression or the material occupation of the soil of American nations.

Peru.—With the reservation that the principles laid down in this Convention shall not be applicable to claims or differences arising from contracts concluded by a country with foreign subjects when it has been expressly stipulated in these contracts that the claims or differences must be submitted to the judges or courts of the country.

II. Salvador.—We make the same reservations as the Argentine Republic above.

Uruguay.—Under reservation of the first paragraph of article 1, because the Delegation considers that arbitration may always be refused as a matter of right if the fundamental law of the debtor nation, prior to the contract which has given rise to the doubts or disputes, or this contract itself, has stipulated that such doubts or disputes shall be settled by the courts of the said nation.

IV. Montenegro.—With the reservations formulated in article 44 of the Regulations annexed to the present Convention and contained in the minutes of the fourth plenary session of August 17, 1907.

Russia.—With the reservations formulated in article 44 of the Regulations annexed to the present Convention and contained in the minutes of the fourth plenary session of August 17, 1907.

V. Argentina.—The Argentine Republic makes reservation of article 19.

VI. Russia.—With the reservations formulated in article 3 and article 4, paragraph 2, of the present Convention, and embodied in the minutes of the seventh plenary session of September 27, 1907.

VIII. Dominican Republic.—With reservation as to the first paragraph of article 1.

Siam.—With reservation of article 1, paragraph 1.

IX. Chile.—With reservation of article 3, formulated during the fourth plenary session of August 17.

X. Persia.—With reservation of the right, recognized by the Conference, to use the Lion and Red Sun instead of and in the place of the Red Cross.

XII. Chile.—With reservation of article 15, formulated at the sixth plenary session of September 21.

Cuba.—With reservation of article 15.

Guatemala.—With the reservations formulated concerning article 15.

Haiti.—With the reservation regarding article 15.

Persia.—With reservation of article 15.

Salvador.—With reservation of article 15.

Siam.—With reservation of article 15.

Uruguay.—With reservation of article 15.

XIII. Dominican Republic.—With reservation regarding article 12.

Persia.—With reservation of articles 12, 19, and 21.

Siam.—With reservation of articles 12, 19, and 23.

XV. With reservations of Wish No. 1, which the Federal Council did not accept.

60TH CONGRESS, 1st Session. } SENATE. { DOCUMENT No. 461.

A Memorial

IN BEHALF OF THE ARCHITECT OF OUR FEDERAL CONSTITUTION

Pelatiah Webster
of Philadelphia, Pa.

Presented by Mr. CARTER, May 4, 1908.—Ordered to be printed.

Washington
Government Printing Office
1908

S D—60-1—Vol 9——37

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IN BEHALF OF THE ARCHITECT OF OUR FEDERAL CONSTITUTION

Pelatiah Webster
of Philadelphia, Pa.

To the Congress of the United States:

The purpose of this memorial is twofold: First, to place in the hands of Congress the data for a new and pivotal chapter in the history of the Constitution that will impress upon succeeding generations the all-important fact that every basic principle which differentiates our existing Federal system from all that have preceded it was a part of a single invention struck off at a given time by the brain and purpose of one man; second, to press upon Congress the long neglected duty of honoring, by an appropriate monument, the memory of an American statesman and patriot who has made a larger personal contribution to the science of government than any other one individual in the history of mankind. From the data thus presented it clearly appears that among our nation builders Pelatiah Webster stands second to Washington alone. All the world understands in a vague and general way that certain path-breaking principles entered into the structure of our second Federal Constitution of 1789 which differentiate it from all other systems of federal government that have preceded it. M. de Tocqueville gave formal expression to that understanding when he said: "This Constitution, which may at first be confounded with federal constitutions that have preceded it, rests in truth upon *a wholly novel theory which may be considered a great discovery in modern political science.* In the confederations that preceded the American Constitution of 1789, the allied states, for a common object, agreed to obey the injunctions of a federal government; but they reserved to themselves the right of ordaining and enforcing the execution of the laws of the Union. The American States, which combined in 1789, agreed that the federal government should not only dictate, but should

execute its own enactments. In both cases the right is the same, but the exercise of the right is different; and this difference produced the most momentous consequences."* Mr. Gladstone simply reiterated that idea when he said: "As the British Constitution is the most subtile organism which has proceeded from progressive history, so the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man." That master of the history of English institutions perfectly understood that as our state constitutions are mere reproductions, mere evolutions from the English political system, so our second federal constitution is a new invention "struck off at a given time by the brain and purpose of man."

That invention of a new type of federal government, embodying, as Tocqueville said, "a wholly novel theory," is so unique that it can no more be confounded with any preceding federal government than a modern mogul engine can be confounded with an ancient stage coach. Did that wonderful invention, which has produced such momentous consequences, have a personal author, like all other inventions; or was it revealed at the same moment, and in some mysterious way, to a large number of persons, thinking and acting in isolation? Upon that humanely impossible or miraculous theory historians of our existing constitution have attempted to explain the origin of the unique and prearranged plan of federal government presented to the Convention which sat at Philadelphia during the 125 days that intervened between May 14 and September 17, 1787. After deducting recesses and holidays, there could not have been more than 90 working days. No one has ever contended, or can ever contend, that the great invention in question was made *after the Convention met*, for the simple and conclusive reason that it was the basis of all the "plans" save one, carefully constructed beforehand, out of which the Constitution was evolved. Five and only five "plans," all

* Democracy in America, vol. i, pp. 198, 199.

prearranged, were submitted to the Convention, viz, the Virginia plan, the Charles Pinckney plan, the Connecticut plan, the Alexander Hamilton plan, and the New Jersey plan. As the last only proposed a revision of the Articles of Confederation it may be dismissed from consideration. There were but four plans in which proposals for a new system of federal government were embodied, each resting upon the "wholly novel theory" which has produced "the most momentous consequences."

A distinguished specialist has well said that "the Virginia plan became the rock-bed of the Constitution."* That plan, which embodied perfectly every phase of the great invention, was drafted by Madison, who began his preparation for the labors of the Convention at least a year before it met.† In December, 1786, we find him in active correspondence with Jefferson, then at Paris, as to the Virginia plan.‡ The marvel is that the historians who are supposed to have explored the sources have never taken the pains to ask this simple and inevitable question—*From what common source did the draftsmen of the four plans draw the path-breaking invention which was the foundation of all of them?* Let it be said to the honor of those draftsmen that no one of them ever claimed to be the author of that invention. Neither Madison, nor Charles Pinckney, nor Sherman, nor Ellsworth, nor Hamilton, nor any of their biographers, so far as the writer is informed, ever set up such a claim in behalf of any one of them. The answer to "the simple and inevitable question" just propounded is this: The common source from which the draftsmen of the four plans drew the path-breaking invention underlying them all was "A Dissertation on the Political Union and Constitution of the thirteen United States of North America," published at Philadelphia by

*Meigs, *The Growth of the Constitution in the Federal Convention of* 1787, p.17.

†See *Rives' Life and Times of Madison*, vol. ii, p. 208, "Preparations of Madison for labors of Federal Convention."

‡See letter of Jefferson to Madison of December, 16, 1786, in *Jefferson's Correspondence*, by T. J. Randolph, vol. ii, pp. 64, 65.

Pelatiah Webster, February 16, 1783, and there republished by him with copious notes in 1791, and herein reproduced for the first time after the lapse of 116 years. In that immortal paper, whose lightest words are weighty, he gave to the world, *as his personal contribution to the science of government, and as an entirety worked out in great detail* the "wholly novel theory" of federal government upon which reposes the existing Constitution of the United States.

Prior to the date in question no single element of that theory had ever been propounded by anyone. In a note appended to the republication of 1791 the great inventor gives the following account of the circumstances under which the invention was made: "At the time when this Dissertation was written (February 16, 1783) the defects and insufficiency of the Old Federal Constitution were universally felt and acknowledged; it was manifest, not only that the internal police, justice, security, and peace of the States could never be preserved under it, but the finances and public credit would necessarily become so embarrassed, precarious, and void of support, that no public movement, which depended on the revenue, could be managed with any effectual certainty: but tho' the public mind was under full conviction of all these mischiefs, and was contemplating a remedy, YET THE PUBLIC IDEAS WERE NOT AT ALL CONCENTRATED, MUCH LESS ARRANGED INTO ANY NEW SYSTEM OR FORM OF GOVERNMENT, which would obviate these evils. Under these circumstances, I offered this Dissertation to the public: how far the principles of it were adopted or rejected in the New Constitution, which was four years afterwards (Sept. 17, 1787) formed by the General Convention, and since ratified by all the States, is obvious to every one."

At the same time he added: "I was fully of opinion (tho' the sentiment at that time would not very well bear) that it would be ten times easier *to form a new Constitution than to mend the old one.* I therefore sat myself down to sketch out the *leading principles of that political Constitution*, which

I thought necessary to the *preservation and happiness* of the United States of America, which are comprised in this Dissertation. I hope the reader will please to consider that these are the original thoughts of a private individual, dictated by the nature of the subject only, long before the important theme became the great object of discussion in the most dignified and important assembly which ever sat or decided in America." The great inventor perfectly understood the merits of his own case which he thus stated with the lucidity of a Greek and the terseness of a Roman. As early as 1781 Pelatiah Webster was the first to propose to the people of the United States, in one of his financial essays published at Philadelphia in May of that year, the calling of "a Continental Convention" for the making of a new Constitution.* In bearing testimony to that fact, Madison said that Pelatiah Webster, "after discussing the fiscal system of the United States, and suggesting, among other remedial provisions, one including a national bank, remarks, that 'the authority of Congress is very inadequate to the performance of their duties; and this indicates the necessity of their calling a *Continental Convention* for the express purpose of ascertaining, defining, enlarging, and limiting the duties and powers of their Constitution.' "† Two years after he had thus sounded the tocsin for the States to assemble he made the invention and published to the world, in detail, the plan upon which the Constitution was to be formed. While the historian Bancroft‡ failed to appreciate the stupendous importance of his work, he frankly admits that he actually performed it when he says: "The public mind was ripening for a transition from a confederation to a real government. Just at this time Pelatiah Webster, a

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*The fact that "Alexander Hamilton made the same suggestion *in a private letter* to James Duane, September 3, 1780," is of no importance. It was not a public act, not even a public declaration. See Gaillard Hunt's "Life of James Madison," p. 108.

† The Madison Papers (1841), vol. ii, pp. 706-7.

‡ History of the Constitution of the United States, vol. i, p. 86.

graduate of Yale College, in a dissertation published at Philadelphia, proposed for the legislature of the United States *a congress of two houses* which should have ample authority for making laws 'of general necessity and utility,' *and enforcing them as well on individuals as on States.* He further suggested not only heads of executive departments, but judges of law and chancery. The tract awakened so much attention that it was reprinted in Hartford, and called forth a reply."* In both of the scanty and stingy biographical notices of him in the leading American encyclopædias, the statement is made that his plan "is mentioned by James Madison as having an influence in directing the public mind to the necessity of a better form of government." Pelatiah Webster needs the admissions neither of Madison nor Bancroft to establish his title to the authorship of the "wholly novel theory" now embodied in the Constitution of the United States, because that title rests upon contemporary documentary evidence as clear and convincing as that upon which rests Jefferson's title to the authorship of the Declaration of Independence. If that be true, then he has made a larger personal contribution to the science of government than any other one individual in the history of mankind. Among our nation-builders he stands second to Washington alone.

And yet among them all he only has been neglected and forgotten by his countrymen, not through any conscious omission, but because of a careless historical scholarship which has failed to present his great achievement in its true light. That conviction has impelled the undersigned—who has devoted more than thirty years to the special study of the origin and growth of our constitutional systems, State and Federal—to present to the Congress herein, very briefly, the historical data upon which Pelatiah Webster's right to immortality depends. He it was who first suggested the separate existence of the two Houses of Congress, when, in

* It was replied to anonymously by Roger Sherman.

1783, he said, "That the *Congress shall consist of two Chambers*, an *Upper* and *Lower* House, or *Senate* and *Commons*, with the *concurrence of both necessary to every act;* and that every State send one or more delegates to each House: this will subject every act to *two* discussions before *two distinct* chambers of men equally *qualified* for the debate, equally *masters* of the subject, and of equal *authority* in the decision."*

Prior to that utterance no *Federal Assembly*, ancient or modern, had ever consisted of two chambers; no one had ever suggested such an idea. If after a careful examination of all the facts the Congress shall deem the architect of our Federal Constitution unworthy of a monument, the undersigned prays in his behalf that this humble memorial may be embodied in its records so that succeeding generations may determine for themselves whether or no his work has been justly judged.

I.

FEDERAL GOVERNMENTS PRIOR TO AND INCLUDING THAT OF 1776.

From the days of the Greek Leagues down to the making of the second constitution of the United States, all federal governments had been constructed on a single plan at once clumsy and inefficient. The most perfect of the Greek Leagues was the Achaian, of which the framers really knew nothing, as we learn from Madison who tells us in the Federalist (xviii) that "could the interior structure and regular operation of the Achaian League be ascertained, it is probable that more light might be thrown by it on the science of federal government than by any like experiments with which we are acquainted." The coveted knowledge was not accessible because the historical scholars who have since passed beyond the Greece of Thucydides into the Greece of Polybios, who have passed beyond the period in which the independent

* The italics in all the quotations from Pelatiah Webster's paper are his own.

city-commonwealth was the dominant political idea into the later and less brilliant period of Hellenic freedom occupied by the history of Greek frederalism, had not then completed their investigations, only fully worked out in very recent years.* Such scanty knowledge as the framers did possess of Greek federalism seems to have been chiefly drawn from the little work of the Abbé Mably, *Observations sur l'Histoire de Grêce* (Federalist, xviii). The only federal governments with whose internal organizations the builders of our Federal Republic were really familiar, and whose histories had any practical effect upon their work, were those that had grown up between the Low-Dutch communities at the mouth of the Rhine, and between the High-Dutch communities in the mountains of Switzerland, and upon the plains of Germany (Federalist, xix, xx). Down to the making of the second constitution of the United States, the Confederation of Swiss Cantons, the United Provinces of the Netherlands, and the German Confederation really represented the total advance made by the modern world in the structure of federal governments.

Such advance was embodied in the idea of a federal system made up of a union of states, cities or districts, representatives from which composed a single federal assembly whose limited powers could be brought to bear, not upon individual citizens, but only upon cities or states as such. The fundamental principle upon which all such fabrics rested was the requisition system, under which the federal assembly was only endowed with the power to make requisitions for men and money upon the states or cities composing the league for federal purposes, while the states, alone, in their corporate capacity possessed the power to execute them. The initial effort of the English colonies in America along the path of federal union ended with the making of the first constitution of the United States embodied in the Articles of

* The first volume (History of Greek Federations) of Edward A. Freeman's great History of Federal Government was not published until 1863.

Confederation. Up to that point nothing new had been achieved; the fruit of the first effort was simply a confederation, constructed upon a plan over two thousand years old, which could only deal through the requisition system with states as states. That confederation possessed no power (1) to operate directly upon the individual citizen; (2) it had no independent power of taxation; (3) the federal head was not divided into three departments—executive, legislative, and judicial; (4) the federal assembly consisted of one chamber instead of two.* The lack of power to levy and collect for itself federal or national taxes rendered our first Federal Government preeminently a failure as a financial system, dependent as it was upon the will of thirteen independent legislatures.

II.

PELATIAH WEBSTER'S INVENTION AND THE SECOND FEDERAL CONSTITUTION OF 1787.

The most scientific writer upon finance during the Revolutionary War was Pelatiah Webster, whose essays on that subject fill a volume.† He was born at Lebanon, Connecticut, in 1725, and graduated at Yale College in 1746. In 1755 he removed to Philadelphia, where he became a prosperous merchant, and in due time an ardent supporter of the patriot cause in the War of the Revolution, aiding with pen and purse. He was captured by the British, and, on account of his ardor was imprisoned for four months. As early as October, 1776, he began to write on the currency, and in 1779 he commenced the publication at Philadelphia of a series of "Essays on Free Trade and Finance." He was sufficiently important as a political economist to be consulted by the Continental Congress as to the resources of the country. His financial studies soon convinced him that

*See Pelatiah Webster's masterful analysis of the first Constitution contained in his Notes published in 1791, *infra*, p. 48.

†The second edition of 1791 was "Printed and sold by Joseph Crukshank, No. 91, High Street," Philadelphia.

no stable fiscal system could be established until the then existing federal government was wiped out and superseded by one endowed with independent taxing power. Therefore, as early as 1781, in one of his financial essays, he made the first public call for the "Continental Convention," referred to by Madison, to be armed with power to devise an adequate system of federal government. Having thus taken the first step, he set himself to work to formulate in advance such an adequate system as the Convention should adopt, whenever it might meet. In the great tract published at Philadelphia, February 16, 1783, we have photographed for us the workings of his mind as he moved along paths never trod before. He sounded the keynote when he declared: "They (the supreme power) *must therefore of necessity be vested with a power of taxation.* I know this is a most important and weighty truth, a dreadful engine of oppression, tyranny, and injury, when ill used; yet, *from the necessity of the case*, it must be admitted.

"For to give a supreme authority a power of making *contracts*, without any power of *payment;* of appointing *officers*, civil and military, without money to *pay* them; power to *build ships*, without *any money* to do it with; a power of *emitting money*, without any power to *redeem* it; or of *borrowing* money, without any power to make payment, etc.—such solecisms in government are so nugatory and absurd that I really think to offer further argument on the subject would be to insult the understanding of my readers. To make all these payments dependent on the votes of *thirteen popular assemblies*, who will undertake to judge of the propriety of every contract and every occasion of money, and *grant* or *withhold* supplies according to their opinion, whilst at the same time the operation of the whole may be stopped by the vote of a single one of them, is absurd." Thus Pelatiah Webster proposed the existing system of federal taxation, then entirely new, to the world; thus he proposed that the ancient system of requisitions, resting on the taxing power

of the states, should be superseded by a system of federal or national taxation extending to every citizen, directly or indirectly. Instead of the lifeless system of absurdity embodied in the Articles of Confederation, he proposed to substitute a self-executing and self-sustaining national system, based on the following propositions, stated in his own language: "*The supreme authority of any State must have power enough to affect the ends of its appointment*, otherwise these ends cannot be answered and *effectually secured.* * * * I begin with my first and great principle, viz, *That the Constitution must vest powers in every department sufficient to secure and make effectual the ends of it.* The supreme authority must have the power of *making war* and *peace*—of *appointing armies* and *navies*—of appointing *officers both civil* and *military*—of making *contracts*—of *emitting*, *coining*, and *borrowing money*—of *regulating trade*—of making *treaties with foreign powers*—of establishing *post-offices*—and, in short, of doing *everything* which the *well-being* of the Commonwealth may require, and which is *not compatable* to any particular State, all of which require money, and cannot possibly be made effectual without it. * * * This tax can be laid by the supreme authority much more conveniently than by the particular Assemblies, and would in no case be subject to their *repeals* or *modifications;* and of course the public credit would never be dependent on, or liable to bankruptcy by the *humors* of, any particular assembly. * * * The delegates which are to form that august body, which are to hold and exercise the supreme authority, ought to be *appointed by the States in any manner they please.*" In formulating his conclusions as to the supremacy of federal law acting directly on all citizens, he said: "(1) *No laws of any State whatever which do not carry in them a force which extends to their effectual and final execution can afford a certain or sufficient security to the subject*—this is too plain to need proof; (2) *Laws or ordinances of any kind* (especially of august bodies of high dignity and consequence), *which fail*

of execution, are much worse than none; they weaken the government; expose it to contempt. * * * A government which is but *half executed*, or whose *operations may all be stopped by a single vote*, is the most *dangerous of all institutions.* * * *

"Further, I propose that if the *execution of any act or order of the supreme authority shall be opposed by force in any of the States* (which God forbid!) it shall be lawful for Congress to send into such State *a sufficient force to suppress it.* On the whole, I take it that the very *existence and use of our union* effectually depends on the *full energy and final effect* of the laws made to support it; and therefore I *sacrifice all other considerations to this energy and effect;* and if our Union is not worth this purchase we must give it up—the *nature of the thing* does not admit any other alternative." In these ringing terms was announced the path-breaking invention of a supreme and self-executing federal government operating directly upon the citizen; an invention for which the world had been waiting for two thousand years; *an invention of which no trace or hint is to be found in the constitutions of any of the Teutonic Leagues, in the Articles of Confederation, or in the prior utterance of any other man.*

Having thus defined his fundamental concept of a federal government operating directly on the citizen, the great one boldly accepted the inevitable corollary that such a government must be strictly organized and equipped with machinery adequate to its ends—with the usual branches, executive, legislative, and judicial; with its army, its navy, its civil service, and all the usual apparatus of a government, all bearing directly upon every citizen of the Union without any reference to the government of the several States. No such federal government, ancient or modern, had ever existed. As Montesquieu was the first to point out, the division of state powers into executive, legislative, and judicial, originated in that single state in Britain we call England.*

* *Spirit of Laws*, bk. xi, ch. 6.

From that single state the principle passed into the single States of the American Union.* Pelatiah Webster was the first to conceive of the application of the principle of the division of powers to *a federal state;* he was the first to propose that the *federal head* should be divided and then organized, as the particular ones are, into legislative, executive, and judicial. More than three years later Jefferson endorsed that idea by commending it to Madison.† Having thus made his second great invention, Webster proceeded to explain how the three departments, executive, legislative, and judicial, should be organized. His idea was that the executive power should be vested in a council of ministers to be grouped around a President elected by Congress. On that subject he said: "These *ministers* will of course have the best information, and most perfect knowledge, of the state of the Nation, as far as it relates to their several departments, and will of course be able to give the *best information* to Congress, in what manner any bill proposed will affect the public interest in their several departments, which will nearly comprehend the whole. The *Financier* manages the whole subject of the *revenues* and *expenditures; the Secretary of State* takes knowledge of the general *policy* and *internal* government; the *Minister of War* presides in the whole business of *war* and *defence;* and the *Minister of Foreign Affairs* regards the whole state of the Nation, as it stands related to, or connected with, all foreign powers. * * * I would further propose, that the aforesaid *great ministers of state shall compose a Council of State, to whose number Congress may add three others*, viz: one from *New England*, one from the *Middle States* and one from the *Southern States*, one of which to be *appointed President by Congress.*" To the organization of the legislative department Webster gave elaborate consideration. Just as no prior federal government had ever been divided into three departments, so

* *Federalist*, xlvi.

† In the letter written from Paris, December 16, 1786, heretofore cited.

no prior federal legislature had ever been divided into two houses.

The one-chamber body represented by the Continental Congress was the type of every other federal assembly that had ever preceded it. As stated heretofore the path-breaker, looking to the English bicameral system as it had appeared in the several States, proposed "That the *Congress shall consist of two chambers*, an *upper* and *lower* house, or *senate* and *commons*, with the *concurrence of both necessary to every act;* and that every State send one or more delegates to each house: this will subject every act to *two* discussions before *two distinct* chambers of men equally *qualified* for the debate, equally *masters* of the subject, and of equal *authority* in the decision." Citizens of the United States, to whom such a division now seems a matter of course, should remember that when Webster proposed it, it was an unprecedented novelty in the history of the world, so far as *federal* legislatures are concerned. After an elaborate discussion of the qualifications of members of Congress, in which he sharply assailed the then existing rule forbidding their reelection, he proceeded to define a part of the original jurisdiction of the Supreme Court of the United States by saying "that the supreme authority should be vested with powers to *terminate* and *finally decide controversies arising between different States.*" He also said "To these I would add *judges of law* and *chancery.*" Thus the entire federal judicial system was distinctly outlined. Above all he was careful to define the reserved powers of the States. On that subject he said: "I propose further, that the powers of Congress, and all the other departments acting under them, shall all be *restricted to such matters only of general necessity and utility* to all the States, as cannot come *within the jurisdiction* of any particular State, or to which the *authority* of any particular State is not *competent:* so that each particular State shall enjoy all sovereignty and supreme authority to all intents and purposes, excepting only those high authorities and powers by

them delegated to Congress, for the purposes of the general union." In that passage we have the first draft, and a very complete one, of the Tenth Amendment.* So it is a matter of documentary evidence that every element that entered into the "wholly novel theory, which may be considered a great discovery in modern political science," and which differentiates our second federal constitution of 1789 from every other that preceded it, was *the deliberate invention of Pelatiah Webster*, who announced to the world that theory, *as an entirety*, in his epoch-making paper of February 16, 1783. Prior to that date no federal government had ever existed (1) that operated directly on the individual citizen; (2) no federal government had ever been divided into three departments, executive, legislative, and judicial; (3) no federal legislature had ever been divided into an upper and lower house. There is no record, there is not even a claim that, prior to that date, any human being had ever propounded anyone of those principles in connection with a federal government. The great inventor was so conscious at the time of the magnitude of his undertaking that he exclaimed as he wrote:

"May *Almighty wisdom direct my pen* in this arduous discussion." In conclusion he said: "This vast subject lies with mighty weight on my mind, and I have bestowed on it my utmost attention, and here offer the public the best thoughts and sentiments I am master of. * * * I have not the vanity to imagine that my sentiments may be adopted; I shall have all the reward I wish or expect if my Dissertation shall throw any light on the great subject, shall excite an emulation of inquiry, and animate some abler genius to form a plan of greater perfection, less objectionable, and more useful." In his republication of 1791 he described perfectly the circumstances under which the great invention of February 16, 1783, was made, when he said that, "the public

*It provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

ideas were not at all concentrated, much less arranged into any new system or form of government, which would obviate these evils. Under these circumstances I offered this Dissertation to the public." In that Dissertation, Pelatiah Webster presented, as a free gift to the great country that has neglected and forgotten him, the "new system or form of government" which passed, *through the four "plans"* * *offered in the Federal Convention of* 1787, into the existing Constitution of the United States. Certainly no more "wonderful work was ever struck off at a given time by the brain and purpose of man." The outcome of that work was a novel and unique creation operating directly on the people, and not upon the States as corporations. The State governments are not subject to the central government. The people are subject to both governments. The new creation is in no respect federal in its *operation*, although it is in some respects federal in its *organization*. No one of the three basic principles constituting the great invention was seriously questioned in the Convention. Its mighty and immortal task involved only their adaptation to very difficult and complex political conditions. The inventor of the plan stands to the members of the Convention as an architect stands to master builders.

As an evidence of the highly practical temper of Pelatiah Webster the fact should be mentioned in conclusion that, having been a successful merchant, his pet hobby seems to have been to create a Department of Commerce in close touch with Congress. He said: "I therefore humbly propose, if the merchants in the several States are disposed to send delegates from their body, to meet and attend the sitting of Congress, that they shall be permitted to form a *chamber*

* At a later time a grave controversy arose as to "*the singularly minute coincidences* between the draft of a Federal government communicated by Mr. Charles Pinckney of South Carolina, to Mr. Adams, Secretary of State," the Virginia plan, and the Constitution as finally adopted. Every explanation was given of "the singularly minute coincidences," except the plain and obvious one *the four plans out of which the Constitution arose were taken from a common source.* For a statement of the controversy in question see Rives' Life and Times of Madison, vol. ii, pp. 353-357.

of commerce, and *their advice* to Congress be *demanded and admitted* concerning all bills before Congress, as far as the same may affect the *trade of the States*." In his criticisms made in 1791 of the work of the Federal Convention he said that its failure to accept that suggestion was a great mistake. The very recent creation of a Department of Commerce and Labor has at last effectuated his idea. Only through the vista of receding years can such an epoch-making mind be viewed in all its grandeur. What signifies a century of neglect passed in the midst of the "momentous consequences" his mighty work has wrought! His time is at hand; his fame is as safe and as certain as the immortality of thought and the unerring justice of the tribunal of history. His abiding faith in the justice of that tribunal he clearly expressed when he said: "But if any of these questions should in future time become objects of discussion, neither the *vast dignity of the Convention*, nor the *low unnoticed state of myself*, will be at all considered in the debates; the *merits* of the matter, and *the interests connected with or arising out of it* will alone dictate the decision."

The humanly impossible and miraculous theory which has heretofore serenely assumed that the greatest and most unique of all political inventions had no inventor, can not survive a method of historical investigations that undertakes to demonstrate that beneath every shell there is an animal, behind every document there is a man. The eminent French critic and historian Ch. V. Langlais has said: "History is studied from documents. Documents are the traces which have been left by the thoughts and actions of men of former times. There is no substitute for documents: no documents, no history." Strange indeed it is that the most important document connected with our Constitutional history should now be presented to the jurists and statesmen of the United States as if it were a papyrus from Egypt or Herculaneum.

Humbly presented by

HANNIS TAYLOR.

III.

THE EPOCH-MAKING DOCUMENT OF FEBRUARY 16, 1783, IN WHICH IS EMBODIED THE FIRST DRAFT OF THE EXISTING CONSTITUTION OF THE UNITED STATES:

A DISSERTATION ON THE POLITICAL UNION AND CONSTITUTION OF THE THIRTEEN UNITED STATES OF *NORTH AMERICA*,

which is necessary to their Preservation and Happiness; humbly offered to the Public.

(*First published in Philadelphia, 1783.*)

I. The supreme authority of any State must have power enough to effect the ends of its appointment, otherwise these ends cannot be answered, and effectually secured; at best they are precarious.—But at the same time,

II. The supreme authority ought to be so limited and checked, if possible, as to prevent the abuse of power, or the exercise of powers that are not necessary to the ends of its appointment, but hurtful and oppressive to the subject; but to limit a supreme authority so far as to diminish its dignity, or lessen its power of doing good, would be to destroy or at least to corrupt it, and render it ineffectual to its ends.

III. A number of sovereign States uniting into one Commonwealth, and appointing a supreme power to manage the affairs of the Union, do necessarily and unavoidably part with and transfer over to such supreme power, so much of their own sovereignty as is necessary to render the ends of the union effectual, otherwise their confederation will be an union without bands of union, like a cask without hoops, that may and probably will fall to pieces, as soon as it is put to any exercise which requires strength.

In like manner, every member of civil society parts with many of his natural rights, that he may enjoy the rest in greater security under the protection of society.

The Union of the Thirteen States of America is of mighty consequence to the security, sovereignty, and even liberty of each of them, and of all the individuals who compose them; united under a natural, well adjusted, and effectual Constitution, they are a strong, rich, growing power, with great resources and means of defence, which no foreign power will easily attempt to invade or insult; they may easily command respect.

As their exports are mostly either raw materials or provisions, and their imports mostly finished goods, their trade becomes a capital object with every manufacturing nation of Europe, and all the southern colonies of America; their friendship and trade will of course be courted, and each power in amity with them will contribute to their security.

Their union is of great moment in another respect; they thereby form a superintending power among themselves, that can moderate and terminate disputes that may arise between different States, restrain intestine violence, and prevent any recourse to the dreadful decision of the sword.

I do not mean here to go into a detail of all the advantages of our union; they offer themselves on every view, and are important enough to engage every honest, prudent mind, to secure and establish that union by every possible method, that we may enjoy the full benefit of it, and be rendered happy and safe under the protection it affords.

This union, however important, cannot be supported without a Constitution founded on principles of natural truth, fitness, and utility. If there is one article wrong in such Constitution, it will discover itself in practice, by its baleful operation, and destroy or at least injure the union.

Many nations have been ruined by the errors of their political constitutions. Such errors first introduce wrongs and injuries, which soon breed discontents, which gradually work up into mortal hatred and resentments; hence inveterate parties are formed, which of course make the whole community a house divided against itself, which soon falls either a prey to some enemies without, who watch to devour them, or else crumble into their original constituent parts, and lose all respectability, strength, and security.

It is as physically impossible to secure to civil society, good cement of union, duration, and security without a Constitution founded on principles of natural fitness and right, as to raise timbers into a strong, compact building, which have not been framed upon true geometric principles; for if you cut one beam a foot too long or too short, not all the authority and all the force of all the carpenters can ever get it into its place, and make it fit with proper symmetry there.

As the fate then of all governments depends much upon their political constitutions, they become an object of mighty moment to the happiness and well-being of society; and as the framing of such a Constitution requires great knowledge of the rights of men and societies, as well as of the interests, circumstances, and even prejudices of the several parts of the community or commonwealth, for which it is intended; it becomes a very complex subject, and of course requires great steadiness and comprehension of thought, as well as great knowledge of men and things, to do it properly. I shall, however, attempt it with my best abilities, and hope from the candor of the public to escape censure, if I cannot merit praise.

I begin with my first and great principle, viz: That the Constitution must vest powers in every department sufficient to secure and make effectual the ends of it. The supreme authority must have the power of making war and peace—of appointing armies and navies—of appointing officers both civil and military—of making contracts—of emitting, coining, and borrowing money—of regulating trade—of making treaties with foreign powers—of establishing post-offices—and in short of doing everything which the well-being of the Commonwealth may require, and which is not compatible to any particular State, all of which require money, and cannot possibly be made effectual without it.

They must therefore of necessity be vested with power of taxation. I know this is a most important and weighty truth, a dreadful engine of oppression, tyranny, and injury, when ill used; yet, from the necessity of the case, it must be admitted.

For to give a supreme authority a power of making contracts, without any power of payment—of appointing officers civil and military, without money to pay them—a power to build ships, without any money to do it with—a power of emitting money, without any power to redeem it—or of borrowing money, without any power to make payment, etc., etc.—such solecisms in government are so nugatory and absurd, that I really think to offer further argument on the subject, would be to insult the understanding of my readers.

To make all these payments dependent on the votes of thirteen popular assemblies, who will undertake to judge of the propriety of every contract and every occasion of money, and grant or withhold supplies, according to their opinion, whilst at the same time the operations of the whole may be stopped by the vote of a single one of them, is absurd; for this renders all supplies so precarious and the public credit so extremely uncertain, as must in its nature render all efforts in war, and all regular administration in peace, utterly impracticable, as well as most pointedly ridiculous. Is there a man to be found who would lend money, or render personal services, or make contracts on such precarious security? Of this we have a proof of fact, the strongest of all proofs, a fatal experience, the surest tho' severest of all demonstration, which renders all other proof or argument on this subject quite unnecessary.

The present broken state of our finances—public debts and bankruptcies—enormous and ridiculous depreciation of public securities—with the total annihilation of our public credit—prove beyond all contradiction the vanity of all recourse to the federal Assemblies of the States. The recent instance of the duty of 5 per cent on imported goods, struck dead, and the bankruptcies which ensued on the single vote of Rhode Island, affords another proof of what it is certain may be done again in like circumstances.

I have another reason why a power of taxation or of raising money, ought to be vested in the supreme authority of our commonwealth, viz, the monies necessary for the public

ought to be raised by a duty imposed on imported goods, not a bare 5 per cent or any other per cent on all imported goods indiscriminately, but a duty much heavier on all articles of luxury or mere ornament, and which are consumed principally by the rich or prodigal part of the community, such as silks of all sorts, muslins, cambricks, lawns, superfine cloths, spirits, wines, etc., etc.

Such an impost would ease the husbandman, the mechanic, and the poor; would have all the practical effects of a sumptuary law; would mend the economy, and increase the industry, of the community; would be collected without the shocking circumstances of collectors and their warrants; and make the quantity of tax paid, always depend on the choice of the person who pays it.

This tax can be laid by the supreme authority much more conveniently than by the particular Assemblies, and would in no case be subject to their repeals or modifications; and of course the public credit would never be dependent on, or liable to bankruptcy by the humors of any particular Assembly. In an Essay on Finance, which I design soon to offer to the public, this subject will be treated more fully. (See my Sixth Essay on Free Trade and Finance, p. 229.)

The delegates which are to form that august body, which are to hold and exercise the supreme authority, ought to be appointed by the States in any manner they please; in which they should not be limited by any restrictions; their own dignity and the weight they will hold in the great public councils, will always depend on the abilities of the persons they appoint to represent them there; and if they are wise enough to choose men of sufficient abilities, and respectable characters, men of sound sense, extensive knowledge, gravity, and integrity, they will reap the honor and advantage of such wisdom.

But if they are fools enough to appoint men of trifling or vile characters, of mean abilities, faulty morals, or despicable ignorance, they must reap the fruits of such folly, and content themselves to have no weight, dignity, or esteem in the public councils; and, what is more to be lamented by the Commonwealth, to do no good there.

I have no objection to the States electing and recalling their delegates as often as they please, but think it hard and very injurious both to them and the Commonwealth that they

should be obliged to discontinue them after three years' service, if they find them on that trial to be men of sufficient integrity and abilities; a man of that experience is certainly much more qualified to serve in the place, than a new member of equal good character can be; experience makes perfect in every kind of business—old, experienced statesmen, of tried and approved integrity and abilities, are a great blessing to a State—they acquire great authority and esteem as well as wisdom, and very much contribute to keep the system of government in good and salutary order; and this furnishes the strongest reason why they should be continued in the service, on Plato's great maxim, that "the man best qualified to serve, ought to be appointed."

I am sorry to see a contrary maxim adopted in our American counsels; to make the highest reason that can be given for continuing a man in the public administration, assigned as a constitutional and absolute reason for turning him out, seems to me to be a solecism of a piece with many other reforms, by which we set out to surprise the world with our wisdom.

If we should adopt this maxim in the common affairs of life, it would be found inconvenient, *e. g.*, if we should make it a part of our Constitution, that a man who has served a three years' apprenticeship to the trade of a tailor or shoemaker, should be obliged to discontinue that business for the three successive years, I am of opinion the country would soon be cleared of good shoemakers and tailors.—Men are no more born statesmen than shoemakers or tailors—Experience is equally necessary to perfection in both.

It seems to me that a man's inducement to qualify himself for a public employment, and make himself master of it, must be much discouraged by this consideration, that let him take whatever pains to qualify himself in the best manner, he must be shortly turned out, and of course it would be of more consequence to him, to turn his attention to some other business, which he might adopt when his present appointment should expire; and by this means the Commonwealth is in danger of losing the zeal, industry, and shining abilities, as well as services, of their most accomplished and valuable men.

I hear that the State of Georgia has improved on this blessed principle, and limited the continuance of their gov-

ernors to one year; the consequence is, they have already the ghosts of departed governors stalking about in every part of their State, and growing more plenty every year; and as the price of everything is reduced by its plenty, I can suppose governors will soon be very low there.

This doctrine of rotation was first proposed by some sprightly geniuses of brilliant politics, with this cogent reason; that by introducing a rotation in the public offices, we should have a great number of men trained up to public service; but it appears to me that it will be more likely to produce many jacks at all trades, but good at none.

I think that frequent elections are a sufficient security against the continuance of men in public office whose conduct is not approved, and there can be no reason for excluding those whose conduct is approved, and who are allowed to be better qualified than any men who can be found to supply their places.

Another great object of government, is the apportionment of burdens and benefits; for if a greater quota of burden, or a less quota of benefits than is just and right, be allotted to any State, this ill apportionment will be an everlasting source of uneasiness and discontent. In the first case, the overburdened State will complain; in the last case, all the States, whose quota of benefit is under-rated, will be uneasy; and this is a case of such delicacy, that it cannot be safely trusted to the arbitrary opinion or judgment of any body of men however august.

Some natural principles of confessed equity, and which can be reduced to a certainty, ought, if possible, to be found and adopted; for it is of the highest moment to the Commonwealth, to obviate, and, if possible, wholly to take away, such a fruitful and common source of infinite disputes, as that of apportionment of quotas has ever proved in all States of the earth.

The value of lands may be a good rule; but the ascertainment of that value is impracticable; no assessment can be made which will not be liable to exception and debate—to adopt a good rule in anything which is impracticable, is absurd; for it is physically impossible that anything should be good for practise, which cannot be practised at all; but if the value of lands was capable of certain assessment, yet to adopt that value as a rule of apportionment of quotas, and

at the same time to except from valuation large tracts of sundry States of immense value, which have all been defended by the joint arms of the whole Empire, and for the defence of which no additional quota of supply is to be demanded of those States, to whom such lands are secured by such joint efforts of the States, is in its nature unreasonable, and will open a door for great complaint.

It is plain without argument, that such States ought either to make grants to the Commonwealth of such tracts of defended territory, or sell as much of them as will pay their proper quota of defence, and pay such sums into the public treasury; and this ought to be done, let what rule of quota forever be adopted with respect to the cultivated part of the United States; for no proposition of natural right and justice can be plainer than this, that every part of valuable property which is defended, ought to contribute its quota of supply for that defence.

If then the value of cultivated lands is found to be an impracticable rule of apportionment of quotas, we have to seek for some other, equally just and less exceptionable.

It appears to me, that the number of living souls or human persons of whatever age, sex, or condition, will afford us a rule or measure of apportionment which will forever increase and decrease with the real wealth of the States, and will of course be a perpetual rule, not capable of corruption by any circumstances of future time; which is of vast consideration in forming a constitution which is designed for perpetual duration, and which will in its nature be as just as to the inhabited parts of each State, as that of the value of lands, or any other that has or can be mentioned.

Land takes its value not merely from the goodness of its soil, but from innumerable other relative advantages among which the population of the country may be considered as principal; as lands in a full settled country will always (cæteris paribus) bring more than lands in thin settlements. On this principle, when the inhabitants of Russia, Poland, etc., sell real estates, they do not value them as we do, by the number of acres, but by the number of people who live on them.

Where any piece of land has many advantages many people will crowd there to obtain them; which will create many competitors for the purchase of it; which will of course

raise the price. Where there are fewer advantages, there will be fewer competitors, and of course a less price; and these two things will forever be proportionate to each other, and of course the one will always be a sure index of the other.

The only considerable objection I have ever heard to this, is, that the quality of inhabitants differs in the different States, and it is not reasonable that the black slaves in the southern States should be estimated on a par with the white freemen in the northern States. To discuss this question fairly, I think it will be just to estimate the neat value of the labor of both; and if it shall appear that the labor of the black person produces as much neat wealth to the southern State, as the labor of the white person does to the northern State, I think it will follow plainly that they are equally useful inhabitants in point of wealth; and therefore in the case before us, should be estimated alike.

And if the amazing profits which the southern planters boast of receiving from the labor of their slaves on their plantations, are real, the southern people have greatly the advantage in this kind of estimation, and as this objection comes principally from the southward, I should suppose that the gentlemen from that part would blush to urge it any farther.

That the supreme authority should be vested with powers to terminate and finally decide controversies arising between different States, I take it, will be universally admitted, but I humbly apprehend that an appeal from the first instance of trial ought to be admitted in causes of great moment, on the same reasons that such appeals are admitted in all the States of Europe. It is well known to all men versed in courts, that the first hearing of a cause rather gives an opening to that evidence and reason which ought to decide it, than such a full examination and thorough discussion, as should always precede a final judgment, in causes of national consequence. A detail of reasons might be added, which I deem it unnecessary to enlarge on here.

The supreme authority ought to have a power of peace and war, and forming treaties and alliances with all foreign powers; which implies a necessity of their also having sufficient powers to enforce the obedience of all subjects of the United States to such treaties and alliances; with full

powers to unite the force of the States; and direct its operations in war; and to punish all transgressors in all these respects; otherwise, by the imprudence of a few, the whole Commonwealth may be embroiled with foreign powers, and the operations of war may be rendered useless, or fail much of their due effect.

All these I conceive will be easily granted, especially the latter, as the power of Congress to appoint and direct the army and navy in war, with all departments thereto belonging, and punishing delinquents in them all, is already admitted into practise in the course of the present unhappy war, in which we have been long engaged.

II. But now the great and most difficult part of this weighty subject remains to be considered, viz, how these supreme powers are to be constituted in such manner that they may be able to exercise with full force and effect, the vast authorities committed to them, for the good and well-being of the United States, and yet be so checked and restrained from exercising them to the injury and ruin of the States, that we may with safety trust them with a commission of such vast magnitude—and may Almighty wisdom direct my pen in this arduous discussion.

1. The men who compose this important council, must be delegated from all the States; and, of course, the hope of approbation and continuance of honors, will naturally stimulate them to act right, and to please; the dread of censure and disgrace will naturally operate as a check to restrain them from improper behavior: but however natural and forcible these motives may be, we find by sad experience, they are not always strong enough to produce the effects we expect and wish from them.

It is to be wished that none might be appointed that were not fit and adequate to this weighty business; but a little knowledge of human nature, and a little acquaintance with the political history of mankind, will soon teach us that this is not to be expected.

The representatives appointed by popular elections are commonly not only the legal, but real, substantial representatives of their electors, *i. e.*, there will commonly be about the same proportion of grave, sound, well-qualified men, trifling, desultory men—wild or knavish schemers—and dull, ignorant fools, in the delegated assembly, as in the body of electors.

I know of no way to help this; such delegates must be admitted, as the States are pleased to send; and all that can be done is, when they get together, to make the best of them.

We will suppose then they are all met in Congress, clothed with that vast authority which is necessary to the well-being, and even existence, of the union, that they should be vested with; how shall we empower them to do all necessary and effectual good, and restrain them from doing hurt? To do this properly, I think we must recur to those natural motives of action, those feelings and apprehensions, which usually occur to the mind at the very time of action; for distant consequences, however weighty, are often too much disregarded.

Truth loves light, and is vindicated by it. Wrong shrouds itself in darkness, and is supported by delusion. An honest well-qualified man loves light, can bear close examination, and critical inquiry, and is best pleased when he is most thoroughly understood: a man of corrupt design, or a fool of no design, hates close examination and critical inquiry; the knavery of the one, and the ignorance of the other, are discovered by it, and they both usually grow uneasy, before the investigation is half done. I do not believe that there is a more natural truth in the world, than that divine one of our Saviour, "he that doth truth, cometh to the light." I would therefore recommend that mode of deliberation, which will naturally bring on the most thorough and critical discussion of the subject, previous to passing any act; and for that purpose humbly propose,

2. That the Congress shall consist of two chambers, an upper and a lower house, or senate and commons, with the concurrence of both necessary to every act; and that every State send one or more delegates to each house: this will subject every act to two discussions before two distinct chambers of men equally qualified for the debate, equally masters of the subject, and of equal authority in the decision.

These two houses will be governed by the same natural motives and interests, viz, the good of the Commonwealth, and the approbation of the people. Whilst at the same time, the emulation naturally arising between them, will induce a very critical and sharp-sighted inspection into the motions of each other. Their different opinions will bring on conferences between the two houses, in which the whole subject

will be exhausted in arguments pro and con, and shame will be the portion of obstinate convicted error.

Under these circumstances, a man of ignorance or evil design will be afraid to impose on the credulity, inattention, or confidence of his house, by introducing any corrupt or undigested proposition, which he knows he must be called on to defend against the severe scrutiny and poignant objections of the other house. I do not believe the many hurtful and foolish legislative acts which first or last have injured all the States on earth, have originated so much in corruption as indolence, ignorance, and a want of a full comprehension of the subject, which a full, prying and emulous discussion would tend in a great measure to remove: this naturally rouses the lazy and idle, who hate the pain of close thinking; animates the ambitious to excel in policy and argument; and excites the whole to support the dignity of their house, and vindicate their own propositions.

I am not of opinion that bodies of elective men, which usually compose Parliaments, Diets, Assemblies, Congresses, etc., are commonly dishonest: but I believe it rarely happens that there are not designing men among them; and I think it would be much more difficult for them to unite their partisans in two houses, and corrupt or deceive them both, than to carry on their designs where there is but one unalarmed, unapprehensive house to be managed; and as there is no hope of making these bad men good, the best policy is to embarrass them, and make their work as difficult as possible.

In these assemblies are frequently to be found sanguine men, upright enough indeed, but of strong, wild projection, whose brains are always teeming with Utopian, chimerical plans, and political whims, very destructive to society. I hardly know a greater evil than to have the supreme council of a Nation played off on such men's wires; such baseless visions at best end in darkness, and the dance, though easy and merry enough at first, rarely fails to plunge the credulous, simple followers into sloughs and bogs at last.

Nothing can tend more effectually to obviate these evils, and to mortify and cure such maggoty brains, than to see the absurdity of their projects exposed by the several arguments and keen satire which a full, emulous, and spirited discussion of the subject will naturally produce: we have had enough of these geniuses in the short course of our

politics, both in our national and provincial councils, and have felt enough of their evil effects, to induce us to wish for any good method to keep ourselves clear of them in future.

The consultations and decisions of national councils are so very important, that the fate of millions depends on them, therefore no man ought to speak in such assemblies, without considering that the fate of millions hangs on his tongue, —and of course a man can have no right in such august councils to utter undigested sentiments, or indulge himself in sudden, unexamined flights of thought; his most tried and improved abilities are due to the State, who have trusted him with their most important interests.

A man must therefore be most inexcusable, who is either absent during such debates, or sleeps, or whispers, or catches flies during the argument, and just rouses when the vote is called, to give his yea or nay, to the weal or woe of a nation. Therefore it is manifestly proper, that every natural motive that can operate on his understanding, or his passions, to engage his attention and utmost efforts, should be put in practise, and that his present feelings should be raised by every motive of honor and shame, to stimulate him to every practicable degree of diligence and exertion, to be as far as possible useful in the great discussion.

I appeal to the feelings of every reader, if he would not (were he in either house) be much more strongly and naturally induced to exert his utmost abilities and attention to any question which was to pass through the ordeal of a spirited discussion of another house, than he would do, if the absolute decision depended on his own house, without any further inquiry or challenge on the subject.

As Congress will ever be composed of men delegated by the several States, it may well be supposed that they have the confidence of their several States, and understand well the policy and present condition of them; it may also be supposed that they come with strong local attachments, and habits of thinking limited to the interests of their particular States; it may therefore be supposed they will need much information, in order to their gaining that enlargement of ideas, and great comprehension of thought, which will be necessary to enable them to think properly on that large scale, which takes into view the interests of all the States.

The greatest care and wisdom is therefore requisite to give them the best and surest information, and of that kind that may be the most safely relied on, to prevent their being deluded or prejudiced by partial representations, made by interested men who have particular views.

This information may perhaps be best made by the great ministers of state, who ought to be men of the greatest abilities and integrity; their business is confined to their several departments, and their attention engaged strongly and constantly to all the several parts of the same; the whole arrangement, method, and order of which, are formed, superintended, and managed in their offices, and all information relative to their department centre there.

These ministers will of course have the best information, and most perfect knowledge, of the state of the Nation, as far as it relates to their several departments, and will of course be able to give the best information to Congress, in what manner any bill proposed will affect the public interest in their several departments, which will nearly comprehend the whole.

The Financiers manages the whole subject of revenues and expenditures—the Secretary of State takes knowledge of the general policy and internal government—the minister of war presides in the whole business of war and defense—and the minister of foreign affairs regards the whole state of the nation, as it stands related to, or connected with, all foreign powers.

I mention a Secretary of State, because all other nations have one, and I suppose we shall need one as much as they, and the multiplicity of affairs which naturally fall into his office will grow so fast, that I imagine we shall soon be under the necessity of appointing one.

To these I would add Judges of Law, and chancery; but I fear they will not be very soon appointed—the one supposes the existence of law, the other of equity—and when we shall be altogether convinced of the absolute necessity of the real and effectual existence of both of these, we shall probably appoint proper heads to preside in those departments. I would therefore propose,

3. That when any bill shall pass the second reading in the house in which it originates, and before it shall be finally enacted, copies of it shall be sent to each of the said ministers of state, in being at the time, who shall give said house in

writing, the fullest information in their power, and their most explicit sentiments of the operation of the said bill on the public interest, as far as relates to their respective departments, which shall be received and read in said house, and entered on their minutes, before they finally pass the bill; and when they send the bill for concurrence to the other house, they shall send therewith the said informations of the said ministers of state, which shall likewise be read in that house before their concurrence is finally passed.

I do not mean to give these great ministers of state a negative on Congress, but I mean to oblige Congress to receive their advices before they pass their bills, and that every act shall be void that is not passed with these forms; and I further propose, that either house of Congress may, if they please, admit the said ministers to be present and assist in the debates of the house, but without any right of vote in the decision.

It appears to me that if every act shall pass so many different corps of discussion before it is completed, where each of them stake their characters on the advice or vote they give, there will be all the light thrown on the case, which the nature and circumstances of it can admit, and any corrupt man will find it extremely difficult to foist in any erroneous clause whatever; and every ignorant or lazy man will find the strongest inducements to make himself master of the subject, that he may appear with some tolerable degree of character in it; and the whole will find themselves in a manner compelled, diligently and sincerely to seek for the real state of the facts, and the natural fitness and truths arising from them, *i. e.*, the whole natural principles on which the subjects depend, and which alone can endure every test, to the end that they may have not only the inward satisfaction of acting properly and usefully for the States, but also the credit and character which is or ought ever to be annexed to such a conduct.

This will give the great laws of Congress the highest probability, presumption, and means of right, fitness, and truth, that any laws whatever can have at their first enaction and will of course afford the highest reason for the confidence and acquiescence of the States, and all their subjects, in them; and being grounded in truth and natural fitness, their operations will be easy, salutary, and satisfactory.

If experience shall discover error in any law (for practise will certainly discover such errors, if there be any) the legislature will always be able to correct them, by such repeals, amendments, or new laws as shall be found necessary; but as it is much easier to prevent mischiefs than to remedy them, all possible caution, prudence, and attention should be sued, to make the laws right at first.

4. There is another body of men among us, whose business of life, and whose full and extensive intelligence, foreign and domestic, naturally make them more perfectly acquainted with the sources of our wealth, and whose particular interests are more intimately and necessarily connected with the general prosperity of the country, than any other order of men in the States. I mean the Merchants; and I could wish that Congress might have the benefit of that extensive and important information, which this body of men are very capable of laying before them.

Trade is of such essential importance to our interests, and so intimately connected with all our staples, great and small, that no sources of our wealth can flourish, and operate to the general benefit of the community, without it. Our husbandry, that great staple of our country, can never exceed our home consumption without this—it is plain at first sight, that the farmer will not toil and sweat through the year to raise great plenty of the produce of the soil, if there is no market for his produce, when he has it ready for sale, *i. e.*, if there are no merchants to buy it.

In like manner, the manufacturer will not lay out his business on any large scale, if there is no merchant to buy his fabrics when he has finished them; a vent is of the most essential importance to every manufacturing country—the merchants, therefore, become the natural negotiators of the wealth of the country, who take off the abundance, and supply the wants, of the inhabitants;—and as this negotiation is the business of their lives, and the source of their own wealth, they of course become better acquainted with both our abundance and wants, and are more interested in finding and improving the best vent for the one, and supply of the other, than any other men among us, and they have a natural interest in making both the purchase and supply as convenient to their customers as possible, that they may secure their custom, and thereby increase their own business.

It follows then, that the merchants are not only qualified to give the fullest and most important information to our supreme legislature, concerning the state of our trade—the abundance and wants—the wealth and poverty, of our people, *i. e.*, their most important interests, but are also the most likely to do it fairly and truly, and to forward with their influence, every measure which will operate to the convenience and benefit of our commerce, and oppose with their whole weight and superior knowledge of the subject, any wild schemes, which an ignorant or arbitrary legislature may attempt to introduce, to the hurt and embarrasment of our intercourse both with one another, and with foreigners.

The States of Venice and Holland have ever been governed by merchants, or at least their policy has ever been under the great influence of that sort of men. No States have been better served, as appears by their great success, the ease and happiness of their citizens, as well as the strength and riches of their Commonwealths: the one is the oldest, and the other the richest, State in the world of equal number of people—the one has maintained sundry wars with the Grand Turk—the other has withstood the power of Spain and France; and the capitals of both have long been the principal marts of the several parts of Europe in which they are situated; and the banks of both are the best supported, and in the best credit, of any banks in Europe, though their countries or territories are very small, and their inhabitants but a handful, when compared with the great States in their neighbourhood.

Merchants must, from the nature of their business, certainly understand the interests and resources of their country, the best of any men in it; and I know not of any one reason why they should be deemed less upright or patriotic, than any other rank of citizen whatever.

I therefore humbly propose, if the merchants in the several States are disposed to send delegates from their body, to meet and attend the sitting of Congress, that they shall be permitted to form a chamber of commerce, and their advice to Congress be demanded and admitted concerning all bills before Congress, as far as the same may affect the trade of the States.

I have no idea that the continent is made for Congress: I take them to be no more than the upper servants of the great

political body, who are to find out things by study and inquiry as other people do; and therefore I think it necessary to place them under the best possible advantages for information, and to require them to improve all those advantages, to qualify themselves in the best manner possible, for the wise and useful discharge of the vast trust and mighty authority reposed in them; and as I conceive the advice of the merchants to be one of the greatest sources of mercantile information, which is anywhere placed within their reach, it ought by no means to be neglected, but so husbanded and improved, that the greatest possible advantages may be derived from it.

Besides this, I have another reason why the merchants ought to be consulted; I take it to be very plain that the husbandry and manufactures of the country must be ruined, if the present rate of taxes is continued on them much longer, and of course a very great part of our revenue must arise from imposts on merchandise, which will fall directly within the merchants' sphere of business, and of course their concurrence and advice will be of the utmost consequence, not only to direct the properest mode of levying those duties, but also to get them carried into quiet and peaceable execution.

No men are more conversant with the citizens, or more intimately connected with their interests, than the merchants, and therefore their weight and influence will have a mighty effect on the minds of the people. I do not recollect an instance, in which the Court of London ever rejected the remonstrances and advices of the merchants, and did not suffer severely for their pride. We have some striking instances of this in the disregarded advices and remonstrances of very many English merchants against the American war, and their fears and apprehensions we see verified, almost like prophecies by the event.

I know not why I should continue this argument any longer or indeed why I should have urged it so long, in as much as I cannot conceive that Congress or anybody else will deem it below the dignity of the supreme power to consult so important an order of men, in matters of the first consequence, which fall immediately under their notice, and in which their experience, and of course their knowledge and advice, are preferable to those of any other order of men.

Besides the benefits which Congress may receive from this institution, a chamber of commerce, composed of members from all trading towns in the States, if properly instituted and conducted, will produce very many, I might almost say, innumerable advantages of singular utility to all the States—it will give dignity, uniformity, and safety to our trade—establish the credit of the bank—secure the confidence of foreign merchants—prove in very many instances a fruitful source of improvement of our staples and mutual intercourse—correct many abuses—pacify discontents—unite us in our interests, and thereby cement the general union of the whole Commonwealth—will relieve Congress from the pain and trouble of deciding many intricate questions of trade which they do not understand, by referring them over to this chamber, where they will be discussed by an order of men, the most competent to the business of any that can be found, and most likely to give a decision that shall be just, useful, and satisfactory.

It may be objected to all this, that the less complex and the more simple every constitution is, the nearer it comes to perfection: this argument would be very good, and afford a very forcible conclusion, if the government of men was like that of the Almighty, always founded on wisdom, knowledge and truth; but in the present imperfect state of human nature, where the best of men know but in part, and must recur to advice and information for the rest, it certainly becomes necessary to form a constitution on such principles, as will secure that information and advice in the best and surest manner possible.

It may be further objected that the forms herein proposed will embarrass the business of Congress, and make it at best slow and dilatory. As far as this form will prevent the hurrying a bill through the house without due examination, the objection itself becomes an advantage—at most these checks on the supreme authority can have no further effect than to delay or destroy a good bill, but cannot pass a bad one; and I think it much better in the main, to lose a good bill than to suffer a bad one to pass into a law.—Besides it is not to be supposed that clear, plain cases will meet with embarrassment, and it is most safe that untried, doubtful, difficult matters should pass through the gravest and fullest discussion, before the sanction of the law is given to them.

But what is to be done if the two houses grow jealous and ill-natured, and after all their information and advice, grow out of humor and insincere, and no concurrence can be obtained? I answer, sit still and do nothing until they get into a better humor: I think this is much better than to pass laws in such a temper and spirit, as the objection supposes.

It is however an ill compliment to so many grave personages, to suppose them capable of throwing aside their reason, and giving themselves up like children to the control of their passions; or, if this should happen for a moment, that it should continue any length of time, is hardly to be presumed of a body of men placed in such high stations of dignity and importance, with the eyes of all the world upon them—but if they should, after all, be capable of this, I think it madness to set them to making laws, during such fits—it is best, when they are in no condition to do good, to keep them from doing hurt—and if they do not grow wiser in reasonable time, I know of nothing better, than to be ashamed of our old appointments, and make new ones.

But what if the country is invaded, or some other exigency happens, so pressing that the safety of the State requires an immediate resolution? I answer, what would you do if such a case should happen, where there was but one house, unchecked, but equally divided, so that a legal vote could not be obtained. The matter is certainly equally difficult and embarrassed in both cases: but in the case proposed I know of no better way than that which the Romans adopted on the like occasion, viz., that both houses meet in one chamber, and choose a dictator, who should have and exercise the whole power of both houses, till such time as they should be able to concur in displacing him, and that the whole power of the two houses should be suspended in the meantime.

5. I further propose, that no grant of money whatever shall be made, without an appropriation, and that rigid penalties (no matter how great, in my opinion the halter would be mild enough) shall be inflicted on any person, however august his station, who should give order, or vote for the payment, or actually pay one shilling of such money to any other purpose than that of its appropriation, and that no order whatever of any superior in office shall justify such payment, but every order shall express what funds it is drawn upon, and what appropriation it is to be charged to, or the order shall not be paid.

This kind of embezzlement is of so fatal a nature, that no measures or bounds are to be observed in curing it; when ministers will set forth the most specious and necessary occasions for money, and induce the people to pay it in full tale; and when they have gotten possession of it, to neglect the great objects for which it was given, and pay it, sometimes squander it away, for different purposes, oftentimes for useless, yea, hurtful ones, yea, often even to bribe and corrupt the very officers of government, to betray their trust, and contaminate the State, even in its public offices—to force people to buy their own destruction, and pay for it with their hard labor, the very sweat of their brow, is a crime of so high a nature, that I know not any gibbet too cruel for such offenders.

6. I would further propose, that the aforesaid great ministers of state shall compose a Council of State, to whose number Congress may add three others, viz, one from New England, one from the middle States, and one from the southern States, one of which to be appointed President by Congress; to all of whom shall be committed the supreme executive authority of the States (all and singular of them ever accountable to Congress) who shall superintend all the executive departments, and appoint all executive officers, who shall ever be accountable to, and removable for just cause by, them or Congress, *i. e.*, either of them.

7. I propose further, that the powers of Congress, and all the other departments, acting under them, shall all be restricted to such matters only of general necessity and utility to all the States, as cannot come within the jurisdiction of any particular State, or to which the authority of any particular State is not competent: so that each particular State shall enjoy all sovereignty and supreme authority to all intents and purposes, excepting only those high authorities and powers by them delegated to Congress, for the purposes of the general union.

There remains one very important article still to be discussed, viz, what methods the Constitution shall point out, to enforce the acts and requisitions of Congress through the several States; and how the States which refuse or delay obedience to such acts and requisitions, shall be treated: this, I know, is a particular of the greatest delicacy, as well as of the utmost importance; and therefore, I think, ought to be

decidedly settled by the Constitution, in our coolest hours, whilst no passions or prejudices exist, which may be excited by the great interests or strong circumstances of any particular case which may happen.

I know that supreme authorities are liable to err, as well as subordinate ones. I know that courts may be in the wrong, as well as the people; such is the imperfect state of human nature in all ranks and degrees of men; but we must take human nature as it is; it cannot be mended; and we are compelled both by wisdom and necessity, to adopt such methods as promise the greatest attainable good, though perhaps not the greatest possible, and such as are liable to the fewest inconveniences, though not altogether free of them.

This is a question of such magnitude, that I think it necessary to premise the great natural principles on which its decision ought to depend—In the present state of human nature, all human life is a life of chances; it is impossible to make any interest so certain, but there will be a chance against it; and we are in all cases obliged to adopt a chance against us, in order to bring ourselves within the benefit of a greater chance in our favor; and that calculation of chances which is grounded on the great natural principles of truth and fitness, is of all others the most likely to come out right.

1. No laws of any State whatever, which do not carry in them a force which extends to their effectual and final execution, can afford a certain or sufficient security to the subject: this is too plain to need any proof.

2. Laws or ordinances of any kind (especially of august bodies of high dignity and consequence), which fail of execution are much worse than none; they weaken the government; expose it to contempt; destroy the confidence of all men, natives and foreigners, in it; and expose both aggregate bodies and individuals, who have placed confidence in it, to many ruinous disappointments, which they would have escaped, had no law or ordinance been made: therefore,

3. To appoint a Congress with powers to do all acts necessary for the support and uses of the union; and at the same time to leave all the States at liberty to obey them or not with impunity, is, in every view, the grossest absurdity, worse than a state of nature without any supreme authority at all, and at best a ridiculous effort of childish nonsense: and of course,

4. Every State in the Union is under the highest obligation to obey the supreme authority of the whole, and in the highest degree amenable to it, and subject to the highest censure for disobedience—Yet all this notwithstanding, I think the soul that sins shall die, *i. e.*, the censure of the great supreme power, ought to be so directed, if possible, as to light on those persons, who have betrayed their country, and exposed it to dissolution, by opposing and rejecting that supreme authority, which is the band of our union, and from whence proceeds the principal strength and energy of our government.

I therefore propose, that every person whatever, whether in public or private character, who shall, by public vote or overt act, disobey the supreme authority, shall be amenable to Congress, shall be summoned and compelled to appear before Congress, and, on due conviction, suffer such fine, imprisonment, or other punishment, as the supreme authority shall judge requisite.

It may be objected here, that this will make a Member of Assembly accountable to Congress for his vote in Assembly; I answer, it does so in this only case, viz., when that vote is to disobey the supreme authority; no Member of Assembly can have right to give such a vote, and therefore ought to be punished for so doing—When the supreme authority is disobeyed, the government must lose its energy and effect, and of course the Empire must be shaken to its very foundation.

A government which is but half executed, or whose operations may all be stopped by a single vote, is the most dangerous of all institutions.—See the present Poland, and ancient Greece buried in ruins, in consequence of this fatal error in their policy. A government which has not energy and effect, can never afford protection or security to its subjects, *i. e.*, must ever be ineffectual to its own ends.

I cannot therefore admit, that the great ends of our Union should lie at the mercy of a single State, or that the energy of our government should be checked by a single disobedience, or that such disobedience should ever be sheltered from censure and punishment; the consequences is too capital, too fatal to be admitted. Even though I know very well that a supreme authority, with all its dignity and importance, is subject to passions like other lesser powers, that they may be and often are heated, violent, oppressive, and very tyrannical; yet I know also, that perfection is not to be hoped for

in this life, and we must take all institutions with their natural defects, or reject them altogether: I will guard against these abuses of power as far as possible, but I cannot give up all government, or destroy its necessary energy, for fear of these abuses.

But to fence them out as far as possible, and to give the States as great a check on the supreme authority, as can consist with its necessary energy and effect,

I propose that any State may petition Congress to repeal any law or decision which they have made, and if more than half the States do this, the law or decision shall be repealed, let its nature or importance be however great, excepting only such acts as create funds for the public credit, which shall never be repealed till their end is effected, or other funds equally effectual are substituted in their place; but Congress shall not be obliged to repeal any of these acts, so petitioned against, till they have time to lay the reasons of such acts before such petitioning States, and to receive their answer; because such petitions may arise from sudden heats, popular prejudices, or the publication of matters false in fact, and may require time and means of cool reflection and the fullest information, before the final decision is made: but if after all more than half of the States persist in their demand of a repeal, it shall take place.

The reason is, the uneasiness of a majority of States affords a strong presumption that the act is wrong, for uneasiness arises much more frequently from wrong than right; but if the act was good and right, it would still be better to repeal and lose it, than to force the execution of it against the opinion of a major part of the States; and lastly, if every act of Congress is subject to this repeal, Congress itself will have stronger inducement not only to examine well the several acts under their consideration, but also to communicate the reasons of them to the States, than they would have if their simple vote gave the final stamp of irrevocable authority to their acts.

Further I propose, that if the execution of any act or order of the supreme authority shall be opposed by force in any of the States (which God forbid) it shall be lawful for Congress to send into such State a sufficient force to suppress it.

On the whole, I take it that the very existence and use of our union essentially depends on the full energy and final

effect of the laws made to support it; and therefore I sacrifice all other considerations to this energy and effect, and if our Union is not worth this purchase, we must give it up—the nature of the thing does not admit of any other alternative.

I do contend that our Union is worth this purchase—with it, every individual rests secure under its protection against foreign or domestic insult and oppression—without it, we can have no security against the oppression, insult, and invasion of foreign powers; for no single State is of importance enough to be an object of treaty with them, nor, if it was, could it bear the expense of such treaties, or support any character or respect in a dissevered state, but must lose all respectability among the nations abroad.

We have a very extensive trade, which cannot be carried on with security and advantage, without treaties of commerce and alliance with foreign nations.

We have an extensive western territory which cannot otherwise be defended against the invasion of foreign nations, bordering on our frontiers, who will cover it with their own inhabitants, and we shall loose it forever, and our extent of empire be thereby restrained; and what is worse, their numerous posterity will in future time drive ours into the sea, as the Goths and Vandals formerly conquered the Romans in like circumstances, unless we have the force of the union to repel such invasions. We have, without the union, no security against the inroads and wars of one State upon another, by which our wealth and strength, as well as ease and comfort, will be devoured by enemies growing out of our own bowels.

I conclude then, that our union is not only of the most essential consequence to the well-being of the States in general but to that of every individual citizen of them, and of course ought to be supported, and made as useful and safe as possible, by a Constitution which admits that full energy and final effect of government which alone can secure its great ends and uses.

In a dissertation of this sort, I would not wish to descend to minutiæ, yet there are some small matters which have important consequences, and therefore ought to be noticed. It is necessary that Congress should have all usual and necessary powers of self-preservation and order, *e. g.*, to imprison for contempt, insult, or interruption, etc., and to

expel their own members for due causes, among which I would rank that of non-attendance on the house, or partial attendance without such excuse as shall satisfy the house.

Where there is such vast authority and trust devolved on Congress, and the grand and most important interests of the Empire rest on their decisions, it appears to me highly unreasonable that we should suffer their august consultations to be suspended, or their dignity, authority, and influence lessened by the idleness, neglect, and non-attendance of its members; for we know that the acts of a thin house do not usually carry with them the same degree of weight and respect as those of a full house.

Besides I think, when a man is deputed a delegate in Congress, and has undertaken the business, the whole Empire becomes of course possessed of a right to his best and constant services, which if any member refuses or neglects, the Empire is injured and ought to resent the injury, at least so far as to expel and send him home, that so his place may be better supplied.

I have one argument in favor of my whole plan, viz, it is so formed that no men of dull intellects, or small knowledge, or of habits too idle for constant attendance, or close and steady attention, can do the business with any tolerable degree of respectability, nor can they find either honor, profit, or satisfaction in being there, and of course, I could wish that the choice of the electors might never fall on such a man, or if it should, that he might have sense enough (of pain at least, if not of shame) to decline his acceptance.

For after all that can be done, I do not think that a good administration depends wholly on a good Constitution and good laws, for insufficient or bad men will always make bad work, and a bad administration, let the Constitution and laws be ever so good; the management of able, faithful, and upright men alone can cause an administration to brighten, and the dignity and wisdom of an Empire to rise into respect; make truth the line and measure of public decision; give weight and authority to the government, and security and peace to the subject.

We now hope that we are on the close of a war of mighty effort and great distress, against the greatest power on earth, whetted into the most keen resentment and savage fierceness, which can be excited by wounded pride, and which usually

rises higher between brother and brother offended, than between strangers in contest. Twelve of the Thirteen United States have felt the actual and cruel invasions of the enemy, and eleven of our capitals have been under their power, first or last, during the dreadful conflict; but a good Providence, our own virtue and firmness, and the help of our friends, have enabled us to rise superior to all the power of our adversaries, and made them seek to be at peace with us.

During the extreme pressures of the war, indeed many errors in our administration have been committed, when we could not have experience and time for reflection, to make us wise; but these will easily be excused, forgiven, and forgotten, if we can now, while at leisure, find virtue, wisdom, and foresight enough to correct them, and form such establishments, as shall secure the great ends of our union, and give dignity, force, utility, and permanency to our Empire.

It is a pity we should lose the honor and blessings which have cost us so dear, for want of wisdom and firmness, in measures, which are essential to our preservation. It is now at our option, either to fall back into our original atoms, or form such an union, as shall command the respect of the world, and give honor and security to our people.

This vast subject lies with mighty weight on my mind, and I have bestowed on it my utmost attention, and here offer the public the best thoughts and sentiments I am master of. I have confined myself in this dissertation entirely to the nature, reason, and truth of my subject, without once adverting to the reception it might meet with from men of different prejudices or interests. To find the truth, not to carry a point, has been my object.

I have not the vanity to imagine that my sentiments may be adopted; I shall have all the reward I wish or expect, if my dissertation shall throw any light on the great subject, shall excite an emulation of inquiry, and animate some abler genius to form a plan of greater perfection, less objectionable, and more useful.

NOTES APPENDED BY PELATIAH WEBSTER TO THE REPUBLICATION MADE AT PHILADELPHIA IN 1791.

NOTE I.

1. Forming a plan of confederation, or a system of general government of the United States, engrossed the attention of Congress from the declaration of independence, July 4, 1776, till the same was completed by Congress, July 9, 1778, and recommended to the several States for ratification, which finally took place, March 1, 1781; from which time the said confederation was considered as the grand constitution of the general government, and the whole administration was conformed to it.

And as it had stood the test of discussion in Congress for two years, before they completed and adopted it, and in all the States for three years more, before it was finally ratified, one would have thought that it must have been a very finished and perfect plan of government.

But on trial of it in practice, it was found to be extremely weak, defective, totally inefficient, and altogether inadequate to its great ends and purposes. For,

1. It blended the legislative and executive powers together in one body.

2. This body, viz, Congress, consisted of but one house, without any check upon their resolutions.

3. The powers of Congress in very few instances were definitive and final; in the most important articles of government they could do no more than recommend to the several States; the consent of every one of which was necessary to give legal sanction to any act so recommended.

4. They could assess and levy no taxes.

5. They could institute and execute no punishments, except in the military department.

6. They had no power of deciding or controlling the contentions and disputes of different States with each other.

7. They could not regulate the general trade: or,

8. Even make laws to secure either public treaties with foreign States, or the persons of public ambassadors, or to punish violations or injuries done to either of them.

9. They could institute no general judiciary powers.

10. They could regulate no public roads, canals, or inland navigation, etc., etc., etc.

And what caps all the rest was, that (whilst under such an inefficient political constitution, the only chance we had of any tolerable administration lay wholly in the prudence and wisdom of the men who happened to take the lead in our public councils) it was fatally provided by the absurd doctrine of rotation, that if any Member of Congress by three years' experience and application, had qualified himself to manage our public affairs with consistency and fitness, that he should be constitutionally and absolutely rendered incapable of serving any longer, till by three years' discontinuance, he had pretty well lost the cue or train of the public counsels, and forgot the ideas and plans which made his service useful and important; and, in the mean time, his place should be supplied by a fresh man, who had the whole matter to learn, and when he had learned it, was to give place to another fresh man; and so on to the end of the chapter.

The sensible mind of the United States, by long experience of the fatal mischiefs of anarchy, or (which is about the same thing) of this ridiculous, inefficient form of government, began to apprehend that there was something wrong in our policy, which ought to be redressed and mended; but nobody undertook to delineate the necessary amendments.

I was then pretty much at leisure, and was fully of opinion (though the sentiment at that time would not very well bear) that it would be ten times easier to form a new constitution than to mend the old one. I therefore sat myself down to sketch out the leading principles of that political constitution, which I thought necessary to the preservation and happiness of the United States of America, which are comprised in this Dissertation.

I hope the reader will please to consider, that these are the original thoughts of a private individual, dictated by the nature of the subject only, long before the important theme became the great object of discussion, in the most dignified and important assembly, which ever sat or decided in America.

NOTE 2.

At the time when this Dissertation was written (Feb. 16, 1783) the defects and insufficiency of the Old Federal Constitution were universally felt and acknowledged; it was manifest, not only that the internal police, justice, security and peace of the States could never be preserved under it, but the finances and public credit would necessarily become so embarrassed, precarious, and void of support, that no public movement, which depended on the revenue, could be managed with any effectual certainty: but though the public mind was under full conviction of all these mischiefs, and was contemplating a remedy, yet the public ideas were not at all concentrated, much less arranged into any new system or form of government, which would obviate these evils. Under these circumstances I offered this Dissertation to the public: how far the principles of it were adopted or rejected in the New Constitution, which was four years afterwards (Sept. 17, 1787) formed by the General Convention, and since ratified by all the States, is obvious to every one.

I wish here to remark the great particulars of my plan which were rejected by the Convention.

1. My plan was to keep the legislative and executive departments entirely distinct; the one to consist of the two houses of Congress, the other to rest entirely in the Grand Council of State.

2. I proposed to introduce a Chamber of Commerce, to consist of merchants, who should be consulted by the legislature in all matters of trade and revenue, and which should have the conducting the revenue committed to them.

The first of these the Convention qualified; the second they say nothing of, *i. e.*, take no notice of it.

3. I proposed that the great officers of state should have the perusal of all bills, before they were enacted into laws, and should be required to give their opinion of them, as far as they affected the public interest in their several departments; which report of them Congress should cause to be read in their respective houses, and entered on their minutes. This is passed over without notice.

4. I proposed that all public officers appointed by the executive authority, should be amenable both to them and

to the legislative power, and removable for just cause by either of them. This is qualified by the Convention.

And in as much as my sentiments in these respects were either qualified or totally neglected by the Convention, I suppose they were wrong; however, the whole matter is submitted to the politicians of the present age, and to our posterity in future.

In sundry other things, the Convention have gone into minutiæ, *e. g.*, respecting elections of President, Senators, and Representatives in Congress, etc., which I proposed to leave at large to the wisdom and discretion of Congress, and of the several States.

Great reasons may doubtless be assigned for their decision, and perhaps some little ones for mine. Time, the great arbiter of all human plans, may, after a while, give his decision; but neither the Convention nor myself will probably live to feel either the exultation or mortification of his approbation or disapprobation of either of our plans.

But if any of these questions should in future time become objects of discussion, neither the vast dignity of the Convention, nor the low, unnoticed state of myself, will be at all considered in the debates; the merits of the matter, and the interests connected with or arising out of it, will alone dictate the decision.

60TH CONGRESS, 1st Session | SENATE | DOCUMENT No. 506

ALLEGED STRUCTURAL DEFECTS IN BATTLE SHIPS OF UNITED STATES NAVY

LETTERS AND PAPERS RELATING TO ALLEGED STRUCTURAL DEFECTS IN BATTLE SHIPS OF THE UNITED STATES NAVY

PRESENTED BY MR. HALE

MAY 22, 1908.—Ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

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1.

NAVY DEPARTMENT,
Washington, May 19, 1908.

MY DEAR SENATOR HALE: Referring to my letter of April 15, 1908, transmitting the supplementary statement of the Chief Constructor in relation to certain alleged defects in battle ships of the United States Navy, and the "reports of Admiral Evans and Naval Constructor Robinson concerning the behavior of vessels of the Atlantic Fleet during the voyage from Hampton Roads to Magdalena Bay," also their comments for the information of the Department in connection with future design work, etc., I beg to forward herewith the general comment of the Board on Construction on the above-noted reports of Admiral Evans and Naval Constructor Robinson.

While there was much detailed criticism in the reports of Admiral Evans and Naval Constructor Robinson above referred to, which would not under ordinary circumstances be published and which was intended solely for the information of the Department and its bureaus, it is believed that the publication of these reports in their entirety would not be prejudicial to the best interests of the service. If the criticisms contained in these reports are considered in connection with the other reports submitted upon the same subject, the comments of the Board on Construction, and my letter of March 9, 1908, there should remain no doubt whatever in the minds of impartial critics that the battle ships of the United States Navy are equal, if not superior, to battle ships of foreign navies of corresponding date of design.

It should also be quite evident to those who are interested in the general subject of ship design in the United States Navy that the inevitable changes in naval material render quite valueless any comparison on equal terms of battle ships of latest design with battle ships designed several years ago. It should likewise be quite evident that in the latest designs the experience derived under actual service conditions from battle ships of earlier date of design is fully utilized.

Having just returned from a personal inspection of the Atlantic Battle Ship Fleet, and having had opportunity to converse with some of the ranking officers of the fleet concerning those features of ship design which have recently been in controversy, it is with special satisfaction that I can reaffirm the Department's views with respect to the designs of the *Delaware* and *Michigan* classes set forth in my letter of March 9, 1908, as well as other expressions of opinion of the Department concerning the general character of the vessels of our battle ship fleet. I therefore have no hesitancy in fully concurring in the previously expressed opinions of some of the

most eminent American and foreign authorities on war ship construction, viz, that the battle ships of the United States Navy are equal, and in some respects superior, to foreign battle ships of the same period of design.

Very truly, yours, V. H. METCALF,
Secretary.

Hon. EUGENE HALE,
Chairman Committee on Naval Affairs,
United States Senate.

2.

Letter from the Secretary of the Navy concerning development of designs of naval vessels, with particular reference to the designs of the Delaware and North Dakota.

NAVY DEPARTMENT, *March 9, 1908.*

MY DEAR SENATOR HALE: Referring to my conversation with you on Saturday, I consider it advisable that the Naval Committee should be clearly advised as to the actual circumstances under which the plans for the *Delaware* and *North Dakota* were officially approved by the Department and the unanimity with which the salient features of these vessels were approved by the board on construction, the special board on designs, the Chief of the Bureau of Navigation, and the commander in chief of the Atlantic Fleet.

As you may recall, the plans for these vessels were prepared in competition with those submitted by naval architects not connected with the Navy Department, this competition having been provided for, specifically, by the act of Congress approved June 29, 1906.

After the designs had been thoroughly considered by the board on construction (more than twenty tentative designs having been considered by that board preliminary to the selection of the one finally approved), these plans and all other plans submitted to the Department in competition were referred to a special board under the presidency of the Assistant Secretary of the Navy, Hon. Truman H. Newberry. The other members of this board were Rear-Admiral Merrell, Captain Rodgers, and Captain Wainwright, who were at that time members of the general board, the chief constructor, the engineer in chief, and the Chief of the Bureau of Ordnance, so that a majority of the members of the board had nothing whatever to do with the designs of the vessel submitted by the board on construction.

The features of the various designs submitted were carefully examined by this board, and my predecessor, Mr. Secretary Bonaparte, in his report for the fiscal year 1906, states as follows:

In accordance with the proviso attached to the last naval appropriation bill, the plans for the battle ship authorized by the said bill are, simultaneously with this report, transmitted to Congress. These plans were selected by a board of officers, under the presidency of the Assistant Secretary, after a very careful consideration of various designs submitted by different naval constructors in the United States and one in England and by the board on construction of the Department. The type of vessel selected has a length of 510 feet. In the language of the board: "It will carry as heavy armor and as powerful armament as any known vessel of its class; it will have a speed which is believed to be the highest practicable for a vessel of this type and class, in the present state of knowledge; it will have the highest practicable radius

of action, and can be built within the limit of cost fixed by the act of Congress." This plan, therefore, complies in all respects, in the judgment of this highly competent board, with the terms of the authorization, and the Department has no hesitation in approving the report of the board.

In due course, the report of this special board and the approved plans of the *Delaware* and *North Dakota* were transmitted to Congress, and the naval appropriation bill approved March 2, 1907, contained the following proviso:

> That, for the purpose of further increasing the naval establishment of the United States, the President is hereby authorized to have constructed, by contract or in navy-yards, as hereinafter provided, one first-class battle ship to cost, exclusive of armor and armament, not exceeding six million dollars, similar in all essential characteristics, and additional to, the battle ship authorized by the act making appropriations for the naval service for the fiscal year ending June thirtieth, nineteen hundred and seven, plans and specifications for which last-named vessel have already been prepared and submitted by the Secretary of the Navy for the information of Congress, as required by the provisions of the aforesaid act.

It is thus obvious that the designs of these vessels received the fullest consideration and were, in effect, approved by Congress.

Shortly after my assumption of the duties of Secretary of the Navy, however, it was brought to my attention by an officer attached to the general board that, in his opinion, the armor belt on the *Delaware* and *North Dakota* should be raised 30 inches. This officer subsequently made a formal statement to that effect. His communication was referred to the board on construction and was given most careful consideration, and the board on construction promptly and unanimously submitted its report recommending, in the most definite terms, that no change whatever be made in the designs as approved, since, in their judgment, the armor belt was properly placed.

The officer making the original statement that the location of the armor belt was in error was permitted to see the report of the board on construction and made rejoinder thereto. While the Department had no doubt whatever as to the correctness of the judgment of the board on construction in this instance, it was deemed advisable to obtain the opinion of the then Chief of the Bureau of Navigation, Rear-Admiral Brownson, and the present commander in chief of the Atlantic Fleet, Rear-Admiral Evans. Rear-Admiral Brownson, after carefully looking into the matter, stated specifically that the location of the water-line belt armor of the *Delaware* and *North Dakota*, as decided upon by the board on construction, was entirely correct, and that, in his judgment, no change should be made. Rear-Admiral Evans, who had previously made a statement that, in his judgment, the armor belt was too low, entirely changed his mind after fully considering the plans of those vessels, informing me, in effect, that he had previously been misinformed as to conditions, and that after actual examination he entirely approved of the armor protection of the *Delaware* and *North Dakota* and its location as determined by the board on construction. Admiral Evans, so I am informed, made substantially the same statement to Rear-Admiral Converse, the president of the board on construction, and to Rear-Admiral Capps, the chief constructor, as he did to me in reference to his concurrence in the opinion of the board on construction with respect to the location of the water-line belt on the *Delaware* and *North Dakota*.

I also submitted the question of the location of the water-line belt armor and armor protection of the *Delaware* and *North Dakota* to many other officers of the service, and, with but one exception, they

all informed me that these ships, namely, the *Delaware* and *North Dakota*, were amply protected; in fact, better protected than the ships of any other service, the only criticism being that if the water-line belt armor was raised a few inches it would reduce the weight of the armor and increase the carrying capacity of coal and ammunition, an obviously impossible gain since all available space had already been devoted to such purposes.

While the Department can not for one instant permit the assumption that such vital questions affecting ship design can be determined by popular vote among the officers of the service, and while the Department is most strongly of the opinion that its highly trained and legally appointed official advisers should have the dominating influence in all matters connected with the design of naval vessels, it appears to me that in this question of the location of water-line armor belt the Department has gone out of its way to obtain opinions from the highest possible authorities among the seagoing branch of the Navy, and that there is really no ground for further contention with respect to the matter of the water-line belt armor on the *Delaware* and *North Dakota* or on the *South Carolina* and *Michigan*, whose armor belts are very similar in location and character.

It also seems proper in this connection to note that the officer who has taken the most active interest in agitating this subject of alleged erroneous location of water-line armor, originally recommended in his letter of June 15, 1907, that the water-line belt be raised 30 inches. In a subsequent letter he recommended that it be raised 20 inches. In his recent testimony before your committee he recommended that it be raised 10 inches. I think no better illustration could be had of the unreliable character of recommendations of this kind, since the original proposition of 30 inches is, within less than a year, reduced to 10 inches.

As the only point criticised in the designs of the *Delaware* class is that of water-line armor distribution, and since this criticism has been disposed of by the unanimous opinion of the most competent authorities upon whom the Department must rely in matters of this kind, I am convinced that there is no ground whatever for further criticism or justification for any change in the essential seagoing and military characteristics of the vessels of the *Delaware* class.

In view of my recent conversation with you, I think the above statement very important, and request that it be laid before your committee at such time as you may consider proper.

I also deem it necessary to point out that practically none of the unfavorable criticism which has recently been directed at certain vessels of the United States Navy is applicable to battle ships designed during the past four years, and, so far as concerns location of water-line armor, is really inapplicable to those designed since the *Virginia* class, the contracts for which were signed more than seven years ago. The reports of Rear-Admiral Converse and the chief constructor give extensive and detailed comparison between the battle ships of the United States Navy and those of foreign navies of the same period of design, and, after a careful perusal of these reports, I am wholly convinced that the battle ships of the United States Navy are in no sense inferior, type for type, in their own period of design to those of any other nation in the world; but, on the contrary, I concur in the opinion of certain foreign critics that our battle ships have *a certain measure* of definite superiority.

In conclusion, and as indicating the character of work performed by the board on construction, I invite your attention to the performance of a new type of vessel, whose designs were prepared by that board. I refer to the recent trial of the U. S. S. *Chester*. This vessel was designed to meet certain requirements of the general board for a vessel of high speed and great endurance which could be used for scouting purposes. The *Chester*, *Birmingham*, and *Salem* were, in a measure, an answer to foreign vessels of that class which had been designed to make 25 knots speed. The American designers insisted on having a vessel sufficiently large to maintain a good average speed in all ordinary weather, and that she should have a much larger coal endurance than any foreign vessels of this type. In the recent official trials the scout cruiser *Chester* maintained an average speed of 26.52 knots for four hours, and had in her bunkers during that trial an amount of coal practically equal to that carried by the fastest foreign scout cruisers when their bunkers were full, and the *Chester* actually had on board during the trial three times the amount of coal carried by the largest and fastest of her foreign rivals at the time of their speed trials.

Very truly, yours, V. H. METCALF,
Secretary.

Hon. EUGENE HALE,
Chairman Committee on Naval Affairs,
United States Senate.

3.

NAVY DEPARTMENT,
BOARD ON CONSTRUCTION,
Washington, May 19, 1908.

SIR: The Board on Construction has the honor to submit below brief general comment upon the recent reports of Rear-Admiral R. D. Evans, U. S. Navy, and Naval Constructor R. H. Robinson, U. S. Navy, commenting upon the behavior of vessels of the Atlantic Fleet during the passage from Hampton Roads to Magdalena Bay, also inviting attention to various features of the vessels of the fleet, for the information of the Department in connection with future design work.

The Board has carefully considered the suggestions of Rear-Admiral Evans and Naval Constructor Robinson, and finds itself in general agreement with the very large majority of such suggestions. As a matter of fact, however, the comments of the commander in chief and the naval constructor attached to his staff were made upon battle ships the most recent of which was designed more than six years ago, and nearly all the criticisms made by them are therefore inapplicable to battle ships recently designed. The comments hereinafter made by the Board on Construction relate chiefly to the most important features considered in the reports of Rear-Admiral Evans and Naval Constructor Robinson.

HOMOGENEITY.

Views similar to those submitted by Admiral Evans and Naval Constructor Robinson with respect to the necessity of homogeneity in type of battle ships have long since been accepted as fundamentally

correct by Navy Department officials responsible for new design work, and, so far as legislative and other conditions have permitted, homogeneity of type has been given special consideration. Indeed, with the sole exception of the *Idaho* and *Mississippi*, the designers of the Navy Department, during the past seven years, have given special attention to the desirability of homogeneity, as is fully evidenced by the fact that there are five *Virginias*, six *Connecticuts*, four *Tennessees*, and six *Colorados*. The *South Carolina* and *Michigan* are, so far as concerns maneuvering power, speed, and other characteristics, except battery arrangement, capable of being placed in the same tactical group as the vessels of the *Connecticut* class. The conditions under which the *South Carolina* and *Michigan* were designed, the limitation imposed by Congress upon their size, and the desirability of completing a group of eight vessels of the same general maneuvering characteristics as the *Connecticut* class, have already been brought to the attention of the Department in various official communications. The conditions under which the designs of the *Delaware* and *North Dakota* were developed are too well known to require further elaboration in this report. The two battle ships authorized in this year's appropriation bill, so far as concerns maneuvering qualities, general arrangement of battery, etc., will be quite similar to the *Delaware* and *North Dakota*, so that these two battle ships and the two battle ships just authorized can be considered as a group of four homogeneous vessels.

FREEBOARD.

It may be accepted as an axiom in the development of battle ships that freeboard in excess of that absolutely required for seaworthiness and the proper working of the battery is not only undesirable but a definite disadvantage, as it increases the target area and raises the center of gravity, making the vessel more liable to be hit, and considerably decreasing the stability under damaged conditions. The increase of length and speed of battle ships, and the fine lines forward and aft, in conjunction with the concentration of weight near the extremities of the latest battle ships, has made it advisable to increase the height of freeboard forward. Even in this respect, however, Japan, which has certainly had very considerable experience of fighting under modern conditions, has, in its latest ships, adhered to a forward freeboard of moderate height, the forward freeboard of the *Aki* and *Satsuma* being reported as practically the same as our *Connecticut* class.

HEIGHT OF BROADSIDE GUNS.

The comments with respect to the inability to fight the weather broadside guns under certain conditions of weather are fully appreciated, but it must be borne in mind that for ships now with the Atlantic Fleet the broadside battery can not well be disposed in any other manner than the one adopted—a disposition, be it noted, which is practically identical with that of the battle ships of England, Germany, and Japan of the same period of design.

Indeed, the heights of the axes of the broadside guns of United States battle ships are, as a rule, from 1 to 2 feet higher above water than corresponding guns in British battle ships. The broadside batteries of United States battle ships now in course of construction are purely for torpedo defense, and as all available battery space on the upper deck has been preempted by heavy gun turrets, any

other system of mounting than that adopted would be wholly impracticable. The location of guns of the secondary battery on top of turrets was considered many years ago, and such a location has several times been indicated on the plans of battle ships. So far, however, no guns have been actually so mounted, since there is very good reason to believe that they would not be available for repelling torpedo boats after any general engagement on account of injuries received in action. This matter was carefully considered in connection with the designs of the *South Carolina* and *Delaware* classes, and at that time the disadvantages of mounting guns on top of turrets were believed to be greater than the advantages.

ARMOR AT BOW.

With fine bow lines and consequent small displacement of this portion of the vessel, the devotion of any considerable amount of weight to armor at the bows of battle ships has been considered unnecessary, especially when the water-line armor is extended over so great a proportion of the length of the ship as in the case of the *South Carolina* and *Michigan* and *Delaware* and *North Dakota*. The very great extension of the heavy water-line armor on these vessels in connection with the transverse armored bulkheads and the armored deck forward of the side armor, and extensive compartmental subdivision, with cofferdams filled with cellulose, is believed to provide a very much better protection to the buoyancy and would prevent change trim of the vessel due to water-line damage in a much more efficient degree than has been possible with the arrangement previously adopted in the case of battle ships whose thin side armor was continued to the bow.

LOCATION OF WATER-LINE ARMOR.

From the comments contained in the accompanying reports of Rear-Admiral Evans and Naval Constructor Robinson it is obvious that in the moderate weather experienced during the passage of the fleet from Hampton Roads to Magdalena Bay there were numerous occasions upon which the lower edge of the main armor belt was exposed, and this under the unusually deep-laden condition of the vessels of the fleet, some of these vessels carrying as much as 800 tons of fresh water in their double bottoms and having on board large quantities of excess stores, ammunition, etc. Therefore the statements in these reports as to the undesirability of raising the lower edge of the belt armor, when taken in connection with the very positive statement made in the communication of Captain Ingersoll in his letter of April 16, 1908, fully confirm the Board in its opinion, already expressed, as to the desirability of making no change in the location of the lower edge of heavy water-line armor belts of our battle ships, and certainly that the lower edge should not be raised. The distribution of armored protection on battle ships, like so many other questions relating to battle-ship design, is necessarily a compromise, and the fundamental principles governing such distribution which have heretofore been observed are, in the opinion of the Board, entirely sound and should be adhered to in the future.

ELIMINATION OF BRIDGES.

The Board heartily concurs in the suggestion with respect to the elimination of bridges and other top-hamper unnecessary for the handling of the ship in action and under ordinary conditions of service, and the designs of the *Delaware* and *North Dakota*, whose principal characteristics were determined upon more than two years ago, have fully embodied this principle. As a matter of fact, the desire for additional bridges and top-hamper has come from officers of the fleet rather than from designers, and it is only recently that officers of the fleet appear to have fully realized the benefits which would result from eliminating all bridges, deck erections, and unnecessary weights of every description.

CONNING TOWERS AND FLAGSHIPS.

In the *Delaware* and *North Dakota* provision has already been made for handling the ship from the conning tower, and the other suggestions contained in the reports with respect to the fittings of conning tower have already received and will continue to receive the most careful consideration. For many years past the Board on Construction and the bureaus concerned have recommended that the number of flagships be reduced, and in view of the large number of flagships already existing no battle ships designed during the past four years have been fitted as flagships. The battle ships covered by the current appropriation bill will, however, be designed as flagships.

DOORS IN TRANSVERSE BULKHEADS.

With respect to the omission of doors below the protective deck in main transverse water-tight bulkheads, the Board is of the opinion that the United States Navy has taken the lead in such matters, the designs of battle ships of four years ago embodying this principle, which is now being generally adopted, so far as the Board is aware, by foreign navies. It undoubtedly introduces an element of inconvenience in visiting the various compartments of the vessel, but has very great advantages in preserving the integrity of the vessel's water-tight subdivision.

TURRETS.

With respect to the comments concerning turrets and turret fittings, it may be noted that sighting hoods have been omitted from the turrets of battle ships designed during the past four years. Provision has already been made to supply for the turrets of battle ships now under construction turning gear of efficiency equal to that referred to as having been installed on the *Maine* and *Illinois*. Steps have also been taken to supply similar gear to vessels of the fleet whenever such vessels are available for this installation. Provision has also been made in the turrets of vessels now under construction to obviate the "jumping off" criticised in the accompanying reports. For the turrets of vessels now under construction provision has been made to meet all reasonable requirements concerning ammunition hoists, and the question of making changes in the ammunition hoists of vessels of the fleet has also been fully considered by the bureaus having cognizance of this matter. Provision has also been

made in the turrets of vessels now under construction to supplement the gas-expelling device by air pressure in the turrets themselves. Hand ammunition hoists have also been provided for the turrets of vessels under construction. Consideration has been given to fitting the tops of turrets so that they can be readily removed when necessity therefor arises.

COAL CAPACITY.

Referring to the coal capacity of vessels of the fleet, it is unnecessary in this connection to outline the conditions under which the coal capacities of the various vessels now attached to the fleet were determined upon. Battle ships now under construction, and those designed during recent years, have sufficient coal capacity to insure the radius of action noted in the reports as desirable. In this connection it is not unworthy of note that, of those battle ships now attached to the fleet, the *Alabama* class, whose design was passed upon by a special board, has the smallest coal capacity.

MISCELLANEOUS.

Experiments are now in progress to determine the efficiency of elevated towers for fire-control stations; also as to the best arrangement of bulkheads for giving efficient protection to the ship against torpedo attack.

With respect to the standardization of machinery, the placing of windlass engine, winches, and other auxiliary machinery behind armor, etc., the Board considers it only necessary to invite attention to the fact that a large part of the apparatus connected with such engines must necessarily be exposed, and that, while the placing of the actuating machinery behind armor would probably be desirable, it is in many respects impracticable.

With respect to the comments on ventilation, piping systems, interconnection of salt and fresh water systems, main and secondary drains, scuppers, etc., the Board begs to note that all these criticisms are inapplicable to recent designs, since in these designs the defects commented upon in the reports have been corrected.

In concluding its brief comments upon the reports of Admiral Evans and Naval Constructor Robinson the Board desires to invite particular attention to the fact that some of the vessels of the present Atlantic Fleet were designed more than twelve years ago, and those of most recent design, viz, the *Connecticut* class, were designed about six years ago. It is therefore entirely obvious that many of the characteristics of battle ships now composing the Atlantic Fleet, as well as their fittings and appliances, can not be expected to conform to the latest standard with respect to such matters, although the Board is most decidedly of the opinion that they are fully equal, and in some respects superior, to battle ships of corresponding dates of design in other navies. It is also obvious that without an unwarranted expenditure of money and a serious interference with fleet drills, etc., by reason of the withdrawal of ships for long periods, it is quite impracticable to bring the older vessels of the fleet up to date in all their important features and fittings. So far, however, as may be practicable changes are made from time to time to improve the military efficiency of all ships in commission, and when vessels of the fleet are laid up for general overhauling such extensive military

and other changes are made as may appear to be warranted by the conditions then existing.

In fact, naval material is subject to frequent change in character and quality, and in order that the Department's responsible designers may incorporate in new designs such changes and alterations in existing types of battle ships as actual experience in service may have demonstrated to be necessary, careful record is kept of all such desirable alterations and additions for subsequent use in connection with new design work. The opinions of those who have had actual experience in command of battle ships or who have served in other less responsible capacities are also given full consideration. In the last analysis, however, those directly responsible for the design of vessels must use their best judgment, based upon practical experience with the vessels of our own Navy, as well as the developments of naval design in foreign services. In so doing the experience of the past indicates clearly that compromises must be made and that the accepted design can never represent the ideal development of any one feature without injuriously affecting the development of other and equally important features. For this reason any finally accepted design, while expressing the unanimous opinion of those directly responsible, and who have given the matter the greatest consideration, can never be expected to meet the unqualified approval of all those who may have given the general subject of ship design casual or even specific attention.

Finally, it seems well to point out that on account of the method of making appropriation for battle ships in vogue during the earlier part of the twelve-year period covered by the designs of the vessels now composing the Atlantic Battle Ship Fleet five essentially dissimilar designs of battle ships have been evolved, this being an almost necessary consequence of a procedure which does not contemplate a continuous naval programme.

The Board on Construction is very much of the opinion that battle ships should be built in "classes," with not less than four of practically the same type in each class. This opinion has been held by the various members of the Board for many years, and it is hoped that in all future programmes of battle ships for the United States Navy the principle of building in groups of not less than four similar vessels of a type will be adhered to.

Very respectfully,

G. A. CONVERSE,
Rear-Admiral, U. S. Navy, Retired, President of Board.

W. L. CAPPS,
Chief Constructor, U. S. Navy,
Chief of Bureau of Construction and Repair, Member.

N. E. MASON,
Chief of Bureau of Ordnance, Member.

WM. S. COWLES,
Chief of Bureau of Equipment, Member.

A. F. DIXON,
Captain, U. S. Navy,
Acting Chief of Bureau of Steam Engineering, Member.

The SECRETARY OF THE NAVY.

4.

OFFICE OF COMMANDER IN CHIEF,
UNITED STATES ATLANTIC FLEET,
U. S. S. CONNECTICUT, FLAGSHIP,
At sea, en route to Magdalena Bay, March 6, 1908.

SIR: 1. I inclose herewith a report from Naval Constructor R. H. Robinson, U. S. Navy, who has accompanied this fleet from Hampton Roads to Magdalena Bay for the purpose of observing the fleet in service. I recommend that this carefully prepared report be forwarded to the Board on Construction, in order that the suggestions contained in it may be made use of in future design and construction and in any extensive overhauling of the old ships that may be undertaken.

2. On January 6, 1908, at the suggestion of Naval Constructor Robinson, I addressed a series of questions relating to ship's design and interior arrangement to each commanding officer, and a series of questions to each head of department relating to matters under his own cognizance. By my direction Naval Constructor Robinson made a careful study of the replies to these queries and after a full consideration of them prepared the accompanying report. The fact that it is submitted by an officer of his high professional attainments and general good judgment and open-mindedness, and is based on personal observations made during his zealous and untiring investigations during a long cruise with the battle-ship fleet, combined with a digest of the opinions of a large number of seagoing officers, each referring to matters in his own department, should give it great weight, and I trust that the suggestions contained in it will receive the full consideration which they deserve.

3. Except in one or two instances noted in this letter, I heartily approve of the general opinions expressed by Naval Constructor Robinson in his report and the recommendations made by him, but so important do I consider some of the questions mentioned in his report that a further expression of my views seems desirable. In this letter I shall, therefore, discuss certain subjects covered by his report in the same order in which they occur in that report. The numbers set forth in the parentheses after each heading below refer to the paragraphs of his report which touch upon the same subject.

HOMOGENEITY (5, 6, 7).

4. Nothing less than actual experience with a fleet of vessels in service will adequately impress upon any person, officer or layman, the importance of this quality as a common attribute of the vessels of the fleet which are to act together. This cruise has particularly accentuated the importance of homogeneity in units so far as regards coal consumption and capacity, and steaming qualities, but few opportunities for tactical maneuvering have presented themselves, and therefore the absolute necessity for homogeneity in other qualities has not been so clearly brought out. These qualities must be possessed to the same degree by ships that are to maneuver successfully together, and of them I would particularly designate certain features which tactical maneuvers would plainly emphasize, but which, from

present experience only, may be easily overlooked, and in regard to which even sister ships sometimes differ widely. All ships in a fleet can of course be assigned a standard helm angle, corresponding to a standard tactical diameter, but the variations in their times of turning, and in transfer and advance (few turns are more than eight points), is frequently sufficient to throw a perfect line into a very imperfect and ragged column, or vice versa. The tactical defect consists not merely in the difficulty (amounting almost to an impossibility) of satisfactorily drilling a fleet of such ships, but in the fact that in the probable maneuver of going from line into column before an engagement (the fleet would open fire as soon as this change of formation is completed) the formation may be broken to the extent of having one ship blank the fire of others. How far it is practicable to carry this homogeneity of tactical and steaming qualities must of course depend on circumstances. (See par. 47, on propelling machinery, in Naval Constructor Robinson's report, in this connection.) It is my duty at this time to strongly present the value of this feature and to recommend that homogeneity of tactical and steaming qualities be given to units of four vessels as a minimum, but all ships of a class should be as nearly homogeneous in these particulars as practicable. (A special report will soon be made by me on the bad effects on the fleet of the *Maine's* peculiar and inefficient steaming qualities, which effects are so destructive of fleet efficiency that I am compelled to urge her withdrawal from the fleet and the general reconstruction of her boiler plant.)

5. Homogeneity in arc of fire is also important, but homogeneity in the caliber of guns, design of turrets, fittings, etc., is only important to the extent of simplifying ammunition supply, supply of spare parts, etc., to a large fleet, and is therefore of secondary importance as compared to the main question set forth above.

FREEBOARD AND HEIGHT OF GUN POSITIONS (9 to 15, inclusive).

6. Referring to the subject of freeboard, there is no question but that the intermediate-battery guns of every vessel in this fleet are too low for efficiency. When steaming at 10 knots, with an ordinary trade wind anywhere forward of the beam, it is necessary for comfort and to prevent occasional flooding of the gun deck to keep the weather guns secured, with shutters in place. Under such weather conditions it would be possible to fire the guns, but the occasional seas which would enter first one gun port, then another, would flood the deck to such an extent, combined with the roll of the ship, to run over the coamings of the hoists, flood the passages, wet the powder, and would, in short, render the fighting of the guns impracticable. Aside from this, these conditions, when action is not imminent, would necessitate keeping shutters in place, thereby preventing training at the guns, without which they would be of little use in battle. If under the above conditions the speed were increased to 15 knots, the guns could probably not be fired nor the shutters cleared away. Under the above weather conditions the turret guns can nearly always be fired at a 10-knot speed, but at 15 knots it is possible that some difficulty would be encountered.

7. As future ships will have only turret guns in their main battery, *the point* loses some of its importance, but a somewhat higher turret

gun forward would seem necessary to fight with full efficiency at 15 knots in a trade-wind sea, or at 10 or 12 knots in a somewhat heavier sea than that which is ordinarily encountered in the trade belt.

LOCATION OF TORPEDO-DEFENSE GUNS ABOARD THE LATEST SHIPS (16 to 18, inclusive).

8. In new ships the question of the height of broadside guns is transformed into a consideration of the height of torpedo-defense guns, and the fact that in case of a torpedo attack a commanding officer is not at liberty to choose between the use of the weather or of the lee battery renders it important that at least some of these guns be placed high enough to be used efficiently in any sea in which a torpedo boat or destroyer could operate.

9. In this connection the tops of the two higher turrets, suggested by Lieutenant-Commander Upham, seem to be ideal positions for four of these guns. A torpedo attack would usually either precede or follow an engagement, or else would be an isolated attack unaccompanied by a general engagement, and there would therefore be little probability that these guns would be required during a regular action. In fact, in recommending this position for a portion of this battery it is expected that these guns would not be used while the turret guns are firing. When this is taken into consideration the question of ammunition supply is at once simplified, because it would be entirely practicable to pass it up by hand.

10. The exceptional position thus offered aboard our new ships for four guns with very large arcs of fire, and in a commanding position, available for use at all times except during a general engagement, is too valuable to be neglected.

11. These guns would probably be disabled in action; in fact, the accounts of the battle of Tsushima indicate that nearly every secondary battery gun on certain ships (as would be natural to expect) was so disabled. This, therefore, suggests the desirability of protecting by armor or otherwise some torpedo-defense gun expressly for use after an engagement. I therefore, in addition to recommending the utilization of the tops of turrets for a portion of this battery, approve the recommendation made by Naval Constructor Robinson that, if practicable, a certain other portion of this battery be so mounted that the guns would remain housed behind armor during action, and would be available to be quickly thrown into battery and used to repel an attack following an engagement.

ARMOR BELT (16 to 21, inclusive).

12. Judging from the figures contained in the several replies from commanding officers which relate to this subject, it would appear that better protection might have been afforded had these belts been originally placed between 6 inches and 1 foot higher; this on the theory that the commanding officer would admit sufficient water before an action to sink the belt to within about 18 inches above the water line, but even this is open to question, for it has been noted that even when heavy laden and in the smooth to moderate seas, which have thus far characterized this cruise, the ships frequently expose their entire belt

and the bottom plating beneath it. It must be remembered that even a 5 or a 6 inch shell (of which there would be a great number) could inflict a severe and dangerous injury if it struck below the belt, while otherwise the water line, even with the belt entirely submerged, is, on account of the casemate, armor, and coal, immune to all except the heaviest projectiles. The fact is that under the sea conditions in which battles may be fought a belt of 8 feet in width, if considered alone, is too narrow to afford the desired protection, wherever it may be placed; and the question becomes an academic discussion, with certain arguments on each side. It is understood that on the latest ships this question is of little import, as the citadel armor is but 1 inch less in thickness than that on the water line, and for those ships already built it is believed that if bridges are removed and all weights which will be landed when war breaks out are taken into consideration, the ship will rise the 6 or 12 inches which is believed to be the maximum that it should be desired to raise them.

13. In this connection I desire to comment particularly on the disposition of armor on the bows of the ship. When a ship is steaming even at 10 knots the armor at the stem is submerged 2 or 3 feet by the bow wave, and at 15 knots to a much greater depth. There is ordinarily no armor above the water line in this part of the ship, thus rendering it vulnerable to 5 or 6 inch shells, and if these enter, the pitching and ascending would soon fill the decks forward with water, put the ship down by the head, tend to expose her screws and rudder, and render steering erratic.

14. The suggested curving the entire water-line belt up at the bows and covering both sides in the forward portion of the ship, say as far aft as frame 17, with 2 or 3 inch armor as protection against smaller caliber shells, seems pertinent and worthy of consideration.

15. The importance of thorough protection of the steering gear is suggested by Naval Constructor Robinson. The necessity of thorough protection of all parts of this gear is accentuated by the fact that several ships in the Russo-Japanese war were either defeated or seriously injured by having their steering gear disabled. In every "soft-bowed" ship the degree of protection to steering gear, when she is down by the head as the result of injury forward, should be carefully considered.

BRIDGES AND SUPERSTRUCTURE (22).

16. Except for the flagships on which an after bridge and an emergency cabin is an essential, all flying bridges and after bridges are unnecessary and are a menace in action. Under "Conning towers" I mention the nature of bridge which would be desirable forward, viz. the present forward bridge with portable extension on each end extending out to the side, the conning tower being used as the habitual steering position, with a wheel on top and a rail around the conning tower to afford a means of piloting the ship. The bridge should preferably have a portable grating covering, and the chart house either be subject to removal when war breaks out or located farther from the conning tower, on account of fire in action. If there were no flying bridge forward, none would be necessary aft, and the lower bridge, if made large enough to accommodate the signal staff of flag-officer, would then be adequate as the after bridge

of flagships. No stronger testimony against bridge in action can be desired than the frequent allusions in accounts of recent battles to the splinters, fires, and damage caused by their presence.

17. I would recommend that one ship of each class only be fitted as a flagship, the others of the class not to be so fitted. In this connection, in order that space aboard ships which are not flagships be not wasted, it is now time to decide, once for all, on a certain list of ships to be used as flagships, fit them not only in regard to bridges, but in all other respects for that duty, and remove bridges and reallot space on the others. This would greatly increase the efficiency of the fleet, all of which now carry much superfluous weight and much unused space owing to their nearly all being fitted with flag-officers' accommodations.

CONNING TOWERS (23 to 26).

18. I am of the opinion that neither the present conning tower nor, in toto, that recommended by any commanding officer in the fleet is entirely adequate, though a number of recommendations embody many features of what I consider the most efficient tower, and the type suggested by Mr. Robinson meets my approval in all essential particulars.

19. It is my opinion that this very important battle station should be large enough to permit of its habitual use for steering the ship at all times, as is the case in certain foreign navies; that it should be elliptical in shape, extending athwartships far enough to permit a clear view directly astern; and that, while for piloting a wheel should be provided on top, the conning tower should be the only steering station protected from the weather. It should thus become, as it should be, the customary place from which the ship is maneuvered, except when entering a harbor or going alongside of a dock. This change would at once do away with the flying bridge and its incidental hamper. On ships similar to the *Connecticut* a portable extension to the lower bridge should be fitted, extending out to the side, which would be unrigged at "clear ship." The conning tower should be directly over the central station and connected to it by a thick armored tube at least 3 feet in internal diameter in the clear, in order to permit a man to pass through it. In the central station all such gear as wheel, compass, helm indicator, etc., should be duplicated, while the conning tower would require all gear necessary to the habitual handling of the ship. The conning tower should have an opening in the after side which can be closed with an armored door, otherwise the heavy plate formerly fitted is necessary, and this is undesirable both on account of its weight and the less protection it affords.

20. I invite attention to the frequent casualties to personnel in conning towers during the Russo-Japanese war, and therefore can not agree with those officers who state that no top to the tower is necessary. I consider a top essential both as to a protection against gun fire, fragments of shell, etc., and against falling masts, etc. The slits in the tower should be beveled out on the inside to give a greater angle of vision through the same-sized orifice, and they should be somewhat larger than at present, but not larger than necessary to an unobstructed view, and not so large as to weaken the

security of the top of the tower in case it should be hit. Stanchions supporting the top would not give this strength, and are a menace. It is further suggested that the slit be a little above the head of the average man and a runway provided around inside so that only those who must peep out would be exposed to splinters. For ordinary conditions a raised platform would be used by the helmsman, and if necessary this could be used in battle.

21. A conning tower of this nature would be of real service. It would also be large enough for the flag-officer (at present no armored station is provided for him although in a modern engagement such protection is of vital importance). Aside from the question of saving this weight by combining the captain's station with the one required for the flag-officer, that officer should, in battle, be near the captain of the flagship to facilitate transmission of his orders to the vessel. The estimate of three additional people to accompany the flag-officer is thought to be an adequate provision.

22. It would seem to be a wise further precaution to surround this tower at a distance of some 6 feet by a 1-inch plate to act as an exploder of shell which hit it. This space could be utilized in peace as a locker. It is also thought that a plenum ventilation connection from below could be fitted so that in event of fire the smoke could be kept out without closing the peepholes.

23. No apparatus should be in actual contact with the walls of the conning tower. Woodwork, except of a temporary character, should not be placed near the conning tower, on account of the danger of fire in action, this danger being mainly the obscuring of vision by smoke, or the driving away of personnel by smoke and heat, and not necessarily of the destruction of gear.

TORPEDO DIRECTING STATIONS (27 and 28).

24. The location suggested for these stations by Naval Constructor Robinson appear desirable, their only fault being in their protection. In view of the fact that torpedoes will not be used until ships are at comparatively short ranges, the thickness of the armor must be materially increased over that at present in use, as otherwise the stations would probably be shot away before the time came to use them.

SHELL STOWAGE (29).

25. I concur in the belief that special rooms for the stowage of the ordinary types of shell are unnecessary.

QUESTION OF COAL (30 to 33, inclusive, 35 and 36).

26. With reference to the question of coaling, without entering into details relating to any individual ship, I desire to invite attention to the tactical importance of rapid coaling, whether from a lighter or from a collier. This subject is of such importance as to merit the most careful consideration in every feature, from bagging the coal to its final trimming in the bunkers, and extends even to designing the colliers with a view to their "fitting" the average battle ship, so that the greatest number of men and hoists may work at the same time. The question of landing coal bags on the gun deck, the men's

living quarters, and messing apartment is one of importance, in that if the use of it in coaling can be avoided it vastly increases their comfort, but this is, nevertheless, subsidiary to the question of getting the bunkers trimmed quickly.

27. The question of a ship's ability to coal after an engagement also deserves the most careful consideration. A method of accomplishing this is referred to by Naval Constructor Robinson and was suggested by Lieutenant-Commander Bristol, and without entering into its merits I desire to accentuate the importance of such a provision, for it is one on which the chase and final capture of an enemy or even the immediate further taking part in the operations at hand might depend. It therefore merits thought and study.

28. Referring to the question of bunker capacity, I agree with Naval Constructor Robinson that a modern battle ship should have an actual steaming radius at economical speed of 6,000 miles, allowing for make-up feed and for a small margin of coal to be left on arrival in port. In this connection it may be remarked that the variable performances of the ships of this fleet would indicate that this is as much a question of economy in the design of the engines and boilers as is the actual capacity of the bunkers. Results thus far, for example, show that the *Connecticut* steams about 2.8 miles per ton, while vessels of considerably less displacement can not exceed from 2.2 to 2.3.

29. Referring to economical speed itself, that is in itself an important tactical feature. If without material sacrifice of other qualities an economical speed of as much as 12 knots could be obtained, it would greatly facilitate the movements of a fleet when making long passages which demand the employment of economical speeds. Experiments during this trip show that the economical speed of this fleet is about 8 knots (excluding the *Maine*, which has no economical speed and burns over 30 tons of coal a day in port), and I doubt if even the *Connecticut* class would prove their most economical speed to be much above that, although they have a large radius at 10 knots.

COLLIERS (31 to 33 inclusive).

30. In connection with the subject of colliers, I respectfully call attention to a report made to me by the present Chief of Staff, forwarded with my approval under my indorsement of March 5, 1908, which report meets my own views. I believed that the 14 knots speed for such vessels, suggested in paragraph 32 of Naval Constructor Robinson's report, can not be attained without sacrificing more important features in design. Of course the higher speed the better, as is the case in any type of ship, but speed should not be attained by sacrificing the ability to discharge coal into a battle ship expeditiously. Although this is primarily a subject for the consideration of ship designers, I believe 12 knots to be about the highest practicable speed for the type of collier that we must have. From our experience on this trip I am convinced that it will take nearly twice as long to coal the *Connecticut*, for instance, from the *Vestal* and *Prometheus* as it should, and as it would from a ship of less length and with her hatches properly arranged. Those two colliers are about the same length as the *Connecticut*, and as arranged it will be

possible for the latter to coal from only one end at a time. This defect is the result of an attempt to give these two colliers a high speed, and, in my opinion, it is vital.

DOORS IN ENGINE AND FIRE ROOM BULKHEADS (34).

31. The omission of these doors is generally opposed by the engineer officers of the fleet. Nevertheless it would undoubtedly add to the safety of the ship, and I concur in Naval Constructor Robinson's belief that the engineer's force would soon accommodate themselves to the new conditions were the doors omitted. Their omission in future designs from all war-ship bulkheads in the machinery spaces is therefore recommended.

FIRE-CONTROL MASTS (37).

32. These present masts, not having been designed for this purpose, are not well adapted to fire control; aside from the excessive vibration, which may be a necessary evil, one shot, either direct or ricochet, would bring them down. A cage-work mast especially constructed to resist being cut down and, so far as possible, to resist vibration, would probably be satisfactory.

33. The cutting of the communications from the fire-control station by a fragment of a shell in the recent English experiments with the *Hero* suggests the advisability of running such communications through a small armored tube extending from the spotter's station down to armor. This should be heavy enough to protect the wires, etc., from fragments and splinters, even though it might not be practicable to make it a protection against direct impact.

SEARCHLIGHTS (37).

34. The searchlights aboard the ships of this fleet are not suitably located. A searchlight on a bridge, or so located elsewhere that the rays strike any part of the ship, is of little value. It is believed that, so far as practicable, they should be in elevated positions and on the center line of the ship. Further study and experiment with this subject is an absolute essential.

TURRETS (38 to 41, inclusive).

35. The turret-turning gear as mounted aboard the *Maine* is believed to be the best electric gear yet installed, and even that is considered less satisfactory than the Williams-Janney gear as installed aboard the *Illinois*, so far as experience of one year with the latter indicates. The present turrets "kick off" during firing, in some ships to an annoying extent, sufficient in fact to materially decrease efficiency; and in some ships this increases materially during the short string of shots allowed on target practice. This "kicking off" has been minimized by rusting the disks and setting up as hard as possible, in some cases to the extent of putting a wrench on the nuts and training the turret against it. While these expedients in some cases practically remove the difficulty, they are accompanied by the danger of disabling the turret, and are at best a make-

shift to circumvent a difficulty which should, if possible, be corrected in the design.

36. Unless the compressed-air system of loading turret guns proves to be successful, the two-stage hoist is believed to be the best, both regarding safety and rapidity, which now offers.

37. The question of placing turrets under air pressure to assist in expelling gases is heartily approved.

38. I again invite attention to the importance of fitting adequate means for hoisting turret ammunition by hand. The turret guns can be trained, elevated, and loaded by hand, but burning out a hoist motor now puts a turret gun out of commission.

FUNNELS (42).

39. I concur in Naval Constructor Robinson's recommendation as to shortening funnels.

TORPEDO DEFENSE (43 to 46, inclusive).

40. The torpedo defense of all ships in our service is inadequate. This matter has recently been made the subject of an exhaustive report by the board to which Naval Constructor Robinson refers, but I have not seen that report and therefore can not pass judgment upon his references made herein to its contents. Except for the suggestions already made relative to the best location of certain guns of the torpedo-defense battery and for the statement that the searchlights are at present not effectively located, I refrain from further remark.

PROPELLING MACHINERY (47).

41. While believing that the adoption of the turbine machinery must soon come, I approve Naval Constructor Robinson's remarks as to the care which must be taken in adopting it not to sacrifice tactical and maneuvering qualities that are essential to the proper handling of ships, not only as a single vessel but as a unit in a fleet.

INTURNING SCREWS (48).

42. No words that can here be recorded can add to my already often expressed opinion as to the enormity of the error committed when ships were built with inturning screws.

43. I concur in Naval Constructor Robinson's recommendations, and most strongly urge that this engine be placed behind armor or below the protective deck. All that was said under "coaling" with reference to the necessity of protecting the hoists and gear apply even with increased force to the anchor engines. While the wild-cats and shafting must probably remain exposed, it would seem practicable to place the engine behind armor and bring the power to the wild-cats by shafting. In time of war spare parts could be carried to replace those portions of mechanism which must necessarily remain exposed.

STEERING ENGINE (50 to 52, inclusive).

44. Although in their replies to the queries put to them the commanding officers, as a rule, stated that the steering apparatus is satisfactory, it is nevertheless a fact that some minor faults, usually in

the transmission gear and not in the engine, are the most common causes of the exhibition of the breakdown flag in the fleet. This has occurred so often that I have called for a special report from each commanding officer relative to every such failure aboard the ship under his command occurring between Hampton Roads and Magdalena Bay. The statements in these reports will be tabulated when received, and I will then make some further statements and recommendations in regard to this most vital point.

45. The above facts, combined with the heating of some of the after magazines, due to steam pipes in or near such magazines, are the worst features of the present design, and Naval Constructor Robinson's remarks are approved. Some steps should be taken to overcome both troubles, as unreliability of the transmission gear always jeopardizes a ship when she is in close waters, and the heating of the magazines is a serious menace to the ballastic qualities and stability of the ammunition.

WINCHES. (53).

46. Naval Constructor Robinson's remarks on the lack of the power of the winches are correct. Although the winches perhaps now do all that it was intended that they should, at the same time experience has shown that if the fleet is to be efficient as a fighting force they must meet the requirements that Naval Constructor Robinson lays down in his report. Nothing short of that will answer, if the fleet is to spend no more time in coaling than would be desirable in time of war. In the consideration of this vital point it must be constantly borne in mind that a fleet coaling is not, for the time so occupied, a fleet in being, and that every hour that can be cut off from the time taken to coal is an enormous gain in efficiency. This point should be remembered in the design of colliers also.

47. And again I desire to call attention to the necessity for getting the operating apparatus for the winches behind armor or below the protective deck, and for carrying spare parts in time of war to replace those that will inevitably be shot away, in order that the fleet may coal rapidly after action and be at sea again as soon, or if possible sooner, than the enemy.

FANS FOR VENTILATION (54).

48. I concur in Naval Constructor Robinson's remarks.

DOORS (55).

49. I concur in Naval Constructor Robinson's remarks.

BOAT CRANES (56).

50. It is noted that out of the 16 executive officers 11 prefer the crane, while 5 believe it to be a menace in action which its convenience and facility of operation in peace does not counterbalance. The fact that cranes are ideally adapted to their purpose under peace conditions, and the fact that it is at times of primary importance to hoist *boats quickly*, is fully recognized; but nevertheless they are such a

menace to the ship and to the guns and their crews during action that I am of the opinion that some other method of hoisting boats is necessary for battle efficiency. If, therefore, the choice rested between cranes or booms, I should be forced to recommend booms, but I am informed that the collapsible crane suggested in the accompanying report, which combines the desirable features of both systems, has actually been designed. This would appear to be satisfactory.

ICE MACHINES (57).

51. I concur in Naval Constructor's remarks.

PIPING SYSTEMS (58 to 67, inclusive).

52. I concur in general with Naval Constructor Robinson's remarks, especially in regard to the importance of having no intercommunication between the fresh and salt water systems. It has always been an open question whether the existence of such intercommunication aboard the *Connecticut* was not the cause of the outbreak of a serious epidemic of typhoid fever aboard that vessel about a year ago.

53. In regard to paragraph 63 of Naval Constructor Robinson's reports, relative to magazine floods, I have to state that in spite of the fact that the majority of the ordnance officers of the fleet state that the flooding arrangements are satisfactory, I am convinced that as a quick safety precaution (that is, as a precaution which in an emergency will act quickly enough to prevent disaster), the design itself is unsatisfactory. The compartment should be deluged rapidly, preferably from an overhead spray of generous capacity, with a quick-opening valve, as was recommended by Lieutenant-Commander Upham, Lieutenant-Commander Fullinwider, and by certain other officers of the fleet, and which is referred to in Naval Constructor Robinson's report as having been provided in latest ships. It is believed that this is a feature in which improvement is urgently needed.

SCUPPERS (68), VENTILATING SYSTEM (69), HEATING SYSTEM (70), PLUMBING FIXTURES (71).

54. I concur in Naval Constructor Robinson's remarks.

INTERIOR SUBDIVISION AND ARRANGEMENT. (72 and following).

55. When discussing the question of assignment of space on board a battle ship, one general criterion should govern, viz., all features of a ship which will be necessary during war, both before and after an action, that can be reasonably placed behind armor, should be so located. As mentioned above, coaling is one such feature, and the essentials of coaling, both gear and winches, should if practicable be protected; messing is another—the galleys must of necessity be above decks, but the pantry should be behind armor; similarly as to the armory, which should be so located that men could approach from any direction and after receiving rifles return to the deck by another route. The important feature of economical distribution of space aboard ship is also frequently not given sufficient attention.

STOREROOMS (74).

56. The *Connecticut* and *Virginia* classes of ships appear to have inadequate storeroom capacity. The paymaster of the *Connecticut* states that he can carry but one month's provisions. This is believed to be inadequate to war efficiency, as it is believed that every ship should be capable, in an emergency, of stowing three months' provisions.

SHOPS (75).

57. I concur in Naval Constructor Robinson's remarks.

DYNAMO ROOMS (77).

58. The importance of electricity in a modern action renders it desirable and prudent to install two widely separated dynamo rooms even at a somewhat increased expense of installation. I approve of the remarks of Naval Constructor Robinson on this subject, but invite attention to the importance of absolutely guaranteeing to the ship up to the last minute that supply of electrical power which is her very life.

MAGAZINES (78 to 80, inclusive).

59. In view of the frequency of heating of magazines, which was experienced in the fleet when passing through the Tropics, I recently deemed it advisable to forward for the information of the Department, in case of future designs, a considerable number of magazine-temperature cards, which explain, in various cases, the causes of the high temperatures reported. It was noted that the heating was usually ascribed to near-by steam pipes. Particularly was this the case with the steam pipe leading to the steering-engine room. It is believed that with greater care devoted to this feature the magazines will rarely rise above 95°, and that the temperatures in excess of 90° will be experienced only in very hot weather. Therefore it is not believed that magazine refrigeration is a necessity. It would be a very desirable feature, but it is thought that the accruing advantages would probably not offset the increased weight and expense of operation.

STOWAGE OF MAGAZINES.

60. The present stowage of magazines can not be regarded as altogether satisfactory, for the reasons that—

(*a*) There are large quantities of wood in all magazines and shell rooms. No wood whatever, nor anything else inflammable, should be in a magazine, nor, so far as practicable, in immediate contact with it. More than one instance is on record of charred wood in magazines due to the heat in an adjoining apartment, and while danger from this cause is remote, it exists, and such existence seems to be entirely unnecessary. It is possible that explosions of magazines in action may have been frequently due to fires in the immediate adjacent compartments, and hence the presence of combustible material in such compartments should be forbidden, or reduced to a minimum, or else the magazines should be protected by double bulkheads. These

double bulkheads should invariably separate magazines from coal bunkers, and in this case means of artificial ventilation should be supplied in the separating compartment.

(*b*) The space is frequently not used to the best advantage. When preparing the fleet for the Pacific cruise one of my first thoughts was, "What amount of ammunition can we carry?" This question would, in case of threatened hostilities, come all the more prominently to the front. On requesting estimates I found the widest divergence to exist, even among the ships of the same class, but in nearly every case the replies stated that considerably more ammunition than the habitual allowance could be carried, by certain minor changes in stowage or arrangement. In view of the fact that extra ammunition was not available, the subject was not carried further, but as this is a question, and one of much importance, which will come up again at the first prospect of war (for the present normal allowance for the ships of the fleet is small), it is a subject which should be taken up for all the ships as soon as possible and each magazine and shell room arranged to hold its greatest capacity of ammunition in an emergency.

AMMUNITION SUPPLY.

61. Naval Constructor Robinson only touches upon this subject incidentally. It is an important one, and while it is believed that in one or two instances ordnance officers have requested a supply in excess of the actual demands, it is unquestionable that the ships now in commission can only in special cases supply ammunition at the various guns as rapidly as it can be fired. This is largely due to the increase of the rapidity of fire since the ammunition-supply systems were designed. It will be noted that the fact does not in all cases lie only in the hoist itself, but frequently in the difficulties and interference attendant on getting the ammunition to the hoist, as is the case aboard the *Maine*. The ammunition-supply tests held after each practice give the maximum rate of supply for ten minutes under the most favorable circumstances, while the report of the target practice each year shows the average rapidity of fire under the most favorable circumstances. While undoubtedly the rapidity of fire in battle would be materially reduced, as compared with that attained on target practice, it must be remembered that the target practice score is an average of all the pointers and not the maximum attainable; and also that the supply test was made under the best conditions and that it, too, would be reduced in rapidity of action. It would therefore seem reasonable to attempt to provide an ammunition-supply system which, on a short test, would supply ammunition at a rate equal to the average shots per minute on the record practice. If the Bureau of Ordnance approves the recommendation made by Naval Constructor Robinson in paragraph 29 of his report, that shell of ordinary type may be stowed in the open, the question of ammunition stowage and supply will be greatly simplified.

HOSPITAL SPACES (81 to 85, inclusive).

62. The medical officers of the fleet are unanimous in desiring to have the sick bay on the upper deck, and that it may be more commodious, some of them even going so far as to compare sick bays

with hospitals on shore. While realizing the desirability of showing every consideration to the sick, it must be remembered that hospitals are primarily for the accommodation of the sick, while a ship is primarily for the accommodation of the well. When this fact is considered, in connection with the multitudinous requirements for available space on board ship, especially on the upper deck, I am of the opinion that sick bays on vessels of this fleet are, as a rule, commodious in the extreme, and that it would be an injustice to the well to permit a greater assignment of space for the possible comfort of a large number of sick; and especially is this the case when really sick patients are invariably transferred to a hospital at the first opportunity. It is therefore recommended that no increase of space be allotted to the sick bay aboard vessels of the fleet or other vessels to be designed, and that the sick bay be not placed above the berth deck, because of the necessity of reserving the space there for ship use. It is important to efficiency that careful consideration be given to the arrangement of the space at present allowed for the sick bay with a view to having the most suitable accommodation practicable. Referring to the provision of a "dressing station," mentioned in the accompanying report, ships of the fleet habitually make use of the junior officers' mess room and the chief petty officers' quarters, which appear satisfactory, except that in some cases proper facilities for getting the wounded to them have not been provided:

GALLEYS, ETC. (86), GENERAL MESS PANTRY (87), BAKERY (88), SHIPS WATER TANKS (89), MACHINERY SPACES AND ARRANGEMENTS (90), ENGINEER'S STOREROOMS (91–92), GENERAL WORKSHOP (93).

63. I concur in Naval Constructor Robinson's remarks.

LAUNDRY (94).

64. I disagree with Naval Constructor Robinson's conclusion that the laundry could well be omitted from a ship. His statement as to the difference in the necessity for this fitting between a ship acting singly and when with a large fleet is correct, but his final conclusion is, in my opinion, wrong. If the service of the fleet during a winter at Guantanamo be considered, it will at once be seen that officers could have no clothing whatever washed from the time of leaving the United States until returning thereto—a period of four to six months. Similarly, on the present trip, some few officers have tried to get clothes washed ashore, but even the few that have done so have overcrowded the local facilities. Without laundries aboard the ships practically no washing could have been done for the officers since leaving Hampton Roads; many of them would have lost clothing in an effort to get it washed, and by the time we reached Callao, a tropical port, probably no officer would have had any clothing fit to be seen in which to appear at the many official functions that took place there. The acceptance of Naval Constructor Robinson's recommendation would simply mean that the officers of cruising ships would live in deck-washed and rough-dried clothes three-quarters of the time, and would never be fit to appear anywhere; or, as another alternative, the fleet would have to visit good laundry ports at frequent intervals and remain in them as long as the local laundries

chose to keep them there. While it is true that some difficulty is experienced in getting good laundry operators aboard ship, at the same time steady improvement in this particular may reasonably be expected; and in spite of this trouble the work aboard ship during this cruise has been at least as good, if not better, than that which was done on shore.

CHAIN LOCKERS (95).

65. I concur in Naval Constructor Robinson's remarks.

CENTRAL STATION AND FIRE-CONTROL SUBSTATIONS (96).

66. Naval Constructor Robinson's remarks on this subject are approved. I desire to invite special attention to the importance of being able to steer from the central station in battle. With the compass in that station near the dynamos, as is ordinarily the case, it is now generally impracticable to even steady a ship by compass in that station. A special report on substations will be submitted at an early date.

COMPASS LOCATIONS (97 to 99).

67. The remarks in the preceding paragraph apply in part to one phase of this question. So far as standard and steering compasses aboard our battle ships are concerned, there is no doubt that the magnetic conditions which surround them are about as bad as could well be contrived. This matter is an exceedingly serious one, and one which, in my opinion, should be made the subject of special investigation by one or more officers who are particularly qualified in this subject.

SHOWER SPACES (100); BATH ROOMS (101); CHART HOUSES AND EMERGENCY CABINS (102); MISCELLANEOUS FITTINGS (104, 105); LIFE BUOYS (106); BAG RAILS, ETC. (107); GUN PORT SHUTTERS (108); COALING BOOMS AND SPARS (109); NUTS AND BOLTS (110, 111); HEAVY STEEL BUCKLERS (112); HAWSE-PIPE BUCKLERS (113).

68. I concur in Naval Constructor Robinson's remarks.

ANCHORS (114).

69. I concur in the recommendation that only patent anchors be carried. The question of carrying the anchor davit or crane forward is probably one of weight as opposed to convenience. With the modern anchor the davit is rarely necessary, but in case of a foul anchor it is a great convenience. However, a pair of shear legs properly rigged would accomplish the same purpose, though at the expense of time and convenience.

LADDERS (115); SIDE LADDERS (116); WOOD FITTINGS (117); CHOCKS (118); BITTS (119); BOAT DAVITS (120); BOAT CRADLES (121).

70. I concur in Naval Constructor Robinson's remarks.

SECONDARY AMMUNITION HOISTS AND CONVEYERS (122).

71. Subject to the remarks contained in paragraph 61 of this letter, I concur in Naval Constructor Robinson's remarks.

FURNITURE (123).

72. I concur in Naval Constructor Robinson's remarks.

BOATS (124).

73. I concur in Naval Constructor Robinson's remarks. In regard to the question of racing cutters my experience, both before and since racing cutters were introduced, convinces me that they are exceedingly desirable. It is important that they be exactly alike. Heretofore there has been so much variation in their weight as to almost defeat their object, but, generally speaking, they have encouraged racing and have minimized the stress heretofore laid upon the merits of the particular boats, which resulted in extensive changes to the regular boats or the purchase of special race boats.

ALLOWANCE OF STORES (125); CONDUIT (126); SHEATHING FOR INSULATING (127); AIR PORTS (128); WATERWAY GRATINGS (129); SIGNAL LOCKERS (130); COAL BAGS AND GEAR (131); HAMMOCKS (132); TOILET FIXTURES (133); BOW ORNAMENT (134); ASH CHUTES (135).

74. I concur in Naval Constructor Robinson's remarks.

PAINT (136).

75. I agree with Naval Constructor Robinson that the present spar-color paint is entirely unfit for the use to which it is put, for the reason which he gives. I earnestly recommend that where spar color is now employed such a blue gray as he has suggested may be substituted.

BATTLE LIGHTING CIRCUIT (137); INTERNAL DRAFT GAUGES (138); TARPAULIN BATTENS (139); SAND AND WASH DECK GEAR LOCKERS (140); POST-OFFICE (142); BOOKCASES (144).

76. I concur in Naval Constructor Robinson's remarks.

BATTALION LOCKERS (141); ABANDON SHIP LOCKERS (143).

77. These lockers are of great convenience, but are not absolutely essential. Where no great gain would result from their abolition, I recommend that they be retained, but where the space they occupy is needed for other purposes they should go.

Very respectfully, R. D. EVANS,
Rear-Admiral, U. S. Navy,
Commander in Chief United States Atlantic Fleet.

The SECRETARY OF THE NAVY,
Navy Department, Washington, D. C.
(Through Bureau of Navigation.)

5.

U. S. S. CONNECTICUT, FLAGSHIP,
At sea, March 4, 1908.

SIR: 1. I have the honor to submit the following report for your consideration and that of the Navy Department in connection with matters of ship design, arrangements, and fittings.

2. The comments made herein are the results of observation and inquiry on my part as to the ships of this fleet and from consideration of opinions expressed by the various officers of the fleet in reply to the queries contained in your circular letter No. 5, of January 6, 1908.

3. I have divided the items into two general headings:

(*a*) Items affecting the general character of ships and their salient features.

(*b*) Items affecting the detail of internal arrangements and fittings of battle ships of United States fleet.

4. The remarks submitted here have general application to new design work, but, so far as the types of ships permit, also apply to overhauling of existing ships when that is undertaken.

ITEMS AFFECTING THE GENERAL CHARACTER OF SHIPS AND THEIR SALIENT FEATURES.

5. The desirability of homogeneity between vessels operating together has been impressed upon me. Such homogeneity should include economical speed and coal capacity from strategical consideration, and turning and maneuvering qualities and arcs over which guns may be brought to bear from tactical considerations.

6. That fittings and auxiliaries should be interchangeable is desirable, but not so necessary as that the ships should be similar in the above qualities.

7. To what extent absolute homogeneity should be carried is a question open to argument, but I believe that units of four should be the minimum and that in progressing from unit to unit the most careful considerations should be given to the large questions of endurance and maneuvering qualities, so that the various units may be combined into a fleet whose operation is not impeded by the weakness of a small part.

8. The excessive coal consumption of the *Maine* and the small coal capacity of the *Alabama* and *Illinois* bring out these points.

9. In battle ships of considerable length and speeds, in any but the smoothest sea, some water is taken on board forward with the freeboards that exist in the vessels of this fleet. Ordinarily the amount of water is not such as to prevent the use of bow turrets under reasonable conditions. A flaring of the bow sections, omission of excrescences, such as bill boards, bow sponsons, and, where possible, increase of freeboard forward are advisable, and, if length and speed are to be increased, imperative. Bow guns mounted similarly to the forward 3-inch guns on the *Connecticut* class are useless underway at any speed in practically any sea.

10. The flukes of patent anchors when carried low down contribute to this throwing of water and should be raised, as it is understood to have been done on latest designs by making inclination of hawse

pipes to horizontal much less. A low breakwater some distance abaft the bow diagonally inclined to thwartship line and having freeing ports of some size at sides would contribute to dryness.

11. I have seen no weather on this trip where turret guns would be out of action, except so far as flying spray in a few cases might affect the sights. Quarter-decks as low as the *Maine* type do not appear desirable, being frequently flooded by a quartering sea of any size, though I have seen no weather on this trip to put the after turret out of commission.

12. Guns mounted in broadside in positions corresponding to the 7-inch battery of the *Connecticut* are liable to be thrown out of action on the weather side at any considerable speed under trade-wind conditions, or, worse, due to water.

13. If the amount of water getting through the port is not sufficient to cause serious trouble, it will, under these conditions, interfere with drill, make the service of the gun difficult by making decks slippery, and impair the use of the telescope.

14. The effect on the lee guns is much less but, due to refraction from gases of gun in firing and its effect cn sighting, the lee gauge is probably the one that will be chosen and is certainly the best from a gunnery standpoint.

15. With the present acceptation of the all-big-gun ship any battery likely to be on this deck in future will be for torpedo defense only and would probably not be manned during the main action.

16. A torpedo attack may be expected from any direction and, if it is to be repelled while the ship is steaming at some speed under the conditions mentioned above, it would seem that some, at least, of these torpedo-defense guns should be mounted higher than the gun-deck level.

17. It is essential that such torpedo-defense guns be protected by armor in order that they may not be expended in the action and may be ready when wanted. To raise the whole torpedo-defense battery and armor it properly is a difficult matter without raising the main battery, which immediately affects the stability and causes increase of beam and further complication.

18. It therefore seems that part of such guns should be kept on the gun deck suitably protected, and a few might be mounted on tops of turrets or in the high and exposed positions, or, if possible, a suitable design of special quick-acting type of disappearing gun mount developed so that the torpedo-defense guns might be stowed behind armor during the main action and quickly brought to battery afterwards.

19. As to the much-vexed question of armor-belt location, the weather and sea conditions of this trip have been unusually good, but even under these conditions the bottom of the belt of the various ships has been frequently visible, due to the pitching and rolling, and it would seem that the location of the bottom of the belt was not excessively low, as an injury below the belt would be much more serious than one above it, and could be made by a shell of any caliber when the bottom of the belt is exposed.

20. It is realized that the conditions of loading of the various vessels of the fleet were unusual, the single item of reserve feed water *ranging* from 300 tons in several ships to as high as 800 tons in one

ship; in addition to which are unusual spare parts, target-practice ammunition, etc.

21. It would hardly be denied by anyone that it is desirable to have the greatest area and thickness of armor possible, and it would seem that a belt starting at the level of the bottom of the present belt, and made at the maximum width and thickness possible, at the same time assigning proper protection to the turrets and gun emplacements, is a reasonable compromise. Armor at the bow should be arranged with regard to form of wave profile, unless the fineness of bow lines and arrangement of internal subdivisions is such as to make excessive trim and loss of stability from bow damages impossible. Similar remarks apply to the stern, with the additional fact that protection for the steering gear is imperative.

22. A reduction in the number and size of superstructures and bridges should be made. One bridge forward of a generous size, at about the level of conning tower floor, with no flying bridge, is desirable, and a concentration of superstructure forward in the form of a high bow and forecastle will tend to efficiency in many ways. The present type of superstructure is undesirable.

23. The conning tower should have the fundamental requisite of adequate protection and size and unobstructed view, and the dimensions should be decided on with these features in view. Many of the present towers have obstructions to view in the form of supports for structures above the tower, boats, stacks, etc., many of which could be removed with removal of bridge above. Access from the bottom is necessary, but the door should be retained for use under ordinary circumstances if we are to do what the consensus of opinion now demands, namely, handle the ship from a bridge on the same level, by using the wheel, etc., in the conning tower.

24. This tower should be of a size sufficient to accommodate the captain, navigator, and three of four other men stationed at the wheel, instruments, and voice tubes. For a flagship the question of protection to the admiral and his staff is also involved. This brings out the fact that decision should be made at time of design as to whether the ship is to be used as a flagship or not. It is, ordinarily, reasonably simple to make some sort of living provisions for the admiral and his staff, though even that results in a makeshift if not originally provided; but the question of battle station is another matter. It does not appear desirable to make all battle ships flagships, as has been the practice in the past, but certain ones will naturally be required to be so fitted.

25. It seems that for ships so selected to serve as flagships a special sized conning tower to accommodate the admiral and three of his staff in addition to the ship's people would be more efficient and lighter than a separate signal station at the after end of the ship.

26. The type of tower at present fitted seems well suited, though the peepholes should be made larger and the size and surroundings of towers determined by the general considerations mentioned above.

TORPEDO DIRECTING STATIONS.

27. Any place reasonably high up and suitably protected forward and aft, having a clear and unobstructed view over as great a part

of the horizon as possible, will serve well as a torpedo-directing station.

28. The present type on front of conning tower seems well for forward station and an armored tube in center line aft, about where present signal tower is placed, will serve well aft if the view is clear. Such an after tower is not necessary if after tubes are not fitted. The armor of this station should be thicker than is now the case.

29. From inquiry and observation I believe we have in the past made a wrong assumption that all shell require closed rooms for stowage. Provision for storage of intermediate and other shell in passages, at base of hoists, in rear of guns, etc., will simplify the problem of ammunition stowage and supply and give more space for powder. This does not apply to fixed ammunition or to high explosive sensitive fuse shell, which should have separate storage.

30. The problem of coal is one that has confronted the fleet particularly on this trip. The principal general difficulties experienced are inaccessibility of bunker chutes (inherent in ships with side turrets and superstructures), interference of deck fittings with thwartship transportation, which may be removed, and inconvenient location of chutes for delivery to bunkers, which should be guarded against in the future. Chutes should be arranged to deliver in middle of bunkers instead of at sides or corners. Some comments on the details of coaling booms and fittings are made under class B.

COLLIERS.

31. The colliers used on this trip were in most cases ordinary merchant colliers, and are not altogether suited for naval purposes in that when they come alongside their hatches do not fall abreast the battle ship where the bunker chutes and coaling arrangements are located. In all battle ships the bunkers are now and probably will continue to be some distance from bow and stern. This, then, implies that the collier's hatches should be in the middle of her length, the machinery being in the stern and the living spaces, etc., in the bow.

32. It is not believed that a speed of more than 12 to 14 knots is necessary for the majority of colliers to serve the fleet. The type of masts, booms, and winches on these colliers will serve.

33. The sides of the collier's hatches should be smooth and free from anything to catch or tear the bags.

34. It is the generally expressed sentiment of the engineer officers of the fleet that through access within machinery spaces by doors in bulkheads is essential to proper operation of the machinery. It is unquestionably easier, but equally unquestionably is the fact that it is more dangerous in laying open to possible bilging by submarine mine or torpedo boat the whole of the machinery space. Foreign services have adopted the idea of no doors in the thwartship bulkheads in machinery spaces and find it possible to operate their machinery, and it is believed that doors in thwartship bulkheads should be omitted, but that doors in center-line bulkheads when such are fitted are not objectionable.

COAL CAPACITY.

35. Should be sufficient to give a radius of action at economical speed of 10 or 12 knots of at least 6,000 miles.

CONSUMPTION FOR ORDINARY PURPOSES.

36. Every endeavor should be made to procure machinery, both main and auxiliary, of greater coal economy, and to install in a manner best suited to economical working.

FIRE CONTROL PROVISIONS AND SEARCHLIGHTS.

37. The present type of masts is for modern purposes entirely incorrect. It involves an excessive weight for the purpose with inadequate return. The present spotter's platform is supported by a wooden pole which can be carried away by a single shot, direct or ricochet. The wooden pole should be replaced by lattice masts combining the function of supports for range-finder's and spotter's platforms, and searchlights and signal yards, with a pole extension for wireless aerial.

TURRETS.

38. The features of the present turret open to the most improvement are (*a*) the sighting hood, (*b*) the turning gear speed, (*c*) the jumping off of turret as guns fire, (*d*) the ammunition hoist. (*a*) has been overcome by trunnion sights on *South Carolina* and *Michigan* turrets, which sights are strongly recommended. (*b*) has been solved with reasonable satisfaction on two ships of the fleet, the *Maine*, with the rotary compensator electric system, and the *Illinois*, with the Williams hydraulic speed gear controlling a constant-speed electric motor. Either of these will, so far as present experience goes, give suitable results. (*c*) is a matter that should receive careful consideration, as some of the present turrets jump the sights entirely off the target in firing. (*d*) The turret ammunition hoist of the present type necessarily involves an opening of some size for the passage of the hoist rope. Either the pneumatic hoist under construction for test or the two-stage hoist seem to present reasonable solutions of this question.

39. In addition to the above, I believe that the turret should be kept under air pressure to act as a gas-expelling device, and the port opening closed by a suitable flexible cover serving as a means of excluding water as well as retaining the air.

40. Provision should be made for hoisting ammunition by hand in addition to the hand-turning and hand-elevating gears now fitted.

41. The tops of turrets and the arrangements of gun mounts, etc., should be so made that they may be easily removed and new guns installed quickly as may be necessary in time of war.

SMOKESTACKS.

42. In the point of view of target and of interference with fire control these stacks are too high, and it is believed they should be reduced in height to the greatest extent possible commensurate with suitable draft.

TORPEDO DEFENSES.

43. I am impressed with the fact of the apparent helplessness of the fleet against a concentrated and energetic night attack by torpedo boats.

44. This subject was dealt with recently by a special board of which I had the honor to be a member.

45. The general conclusions of that board were that more destroyers were needed, nets should be fitted, searchlights and torpedo defense batteries rearranged, and, if experiments which were recommended indicated the necessity, internal protection as part of the hull structure.

46. I see no reason to modify the views expressed in the report of that board, and I respectfully invite attention to that report as embodying what in my opinion is necessary in that respect.

PROPELLING MACHINERY.

47. The necessity for wide radius of action for strategic purposes and for fine control for station keeping in fleet tactical maneuvers require careful consideration in determining the type of propelling machinery, and a turbine installation which sacrificed these two fundamentally essential elements is believed inferior to reciprocating machinery.

IN-TURNING SCREWS.

48. From observation of the length of time required in turning and maneuvering, particularly from an anchorage, I think there can be no doubt as to the superiority of out-turning screws.

CLASS B.—*Items affecting the detail of internal arrangements and fittings of battle ships.*

ANCHOR WINDLASS.

49. Generally satisfactory in power and operation. It is believed that the vertical spindle, horizontal wild-cat type, of late designs, is preferable to the horizontal-spindle type now in the fleet, and it would seem wise to put the driving mechanism behind adequate protection, extending the spindle up as necessary, which with this type is quite practicable.

STEERING ENGINE.

50. In general functions satisfactory as an engine, but the system as a whole has two objections:

(*a*) The transmission by rope subject to loosening and stranding and which is generally inaccessible.

(*b*) Heating of magazines by steering-engine steam pipes. The development of the electric gear of the *Tacoma* type or placing the engine in the engine room with extension of operating screw shaft seem possible solutions of this difficulty.

51. Wire rope transmission when fitted should have the finest flexible plow steel rope or the special hemp-covered steel rope, which has given such good service on torpedo boats; it should be run in large and easily accessible tubes, with generous slip couplings for access.

52. Special care should be given to keys and pins of clutches and bevel gears, which should be so located and fitted as not to be subject

to jarring out, shearing, or being tampered with by unauthorized parties.

WINCHES.

53. Are in a number of cases deficient in power for modern coaling operations requiring the simultaneous hoisting of four or more bags of 800 pounds each, and constant running under rapidly varying loads for periods of from twelve to twenty-four hours. If the driving motor could be located below decks and operated from above they would be less liable to injury of action, and probably would be available for coaling afterward, which might be essential.

FANS FOR VENTILATION.

54. Satisfactory, generally, in principle and operation, sometimes defective in construction. Ventilation should be provided for spaces corresponding to gun deck of *Connecticut* class, and something equivalent to present coaling skylights for natural exhaust and light. It is believed that all ventilation fans of considerable size should, when possible, be mounted with axis of armature fore and aft.

DOORS.

55. The principle of the electric long-arm door seems good. The pneumatic type of the *Maine* class is worse than useless and should be removed. The electric type of the *Connecticut* class seems to have one drawback of delicacy, but by care is kept in shape. The latter models of this type will undoubtedly overcome many of the difficulties with this door, but the power of motors should be increased. With the exception of doors in machinery spaces and for access to coal bunkers, the use of this system is not desirable. Heavy hatches should be of the balanced type, for hand operation.

BOAT CRANES.

56. The generally expressed sentiment of the executive officers of the fleet is that the boat cranes are preferable to booms. This is undoubtedly the case so far as ease of manipulation is concerned. They are, however, believed to be a menace in action, and a collapsible crane capable of lowering to deck would be a great advance, combining the ease of manipulation of the present cranes with reasonable immunity from damage by falling weights. An arrangement for singling the fall for use in coaling would be advantageous.

ICE MACHINES.

57. Two 2-ton ice machines, or at most one 2-ton and one 3-ton machine should be ample capacity for the cold-storage requirements and ice for a battle ship crew. Further installation is a waste of weight, space, and coal.

PIPING SYSTEM.

58. (*a*) Fire main is, as fitted in more recent ships, suitable as a type. It should, however, in no case be used as a flushing system, either for water-closets or ash chutes, and should be made of some material less subject to continual breakdowns by corrosion than the

present material. The lead-lined steel pipe fitted for experiment on several ships is recommended. Trouble is experienced with gate valves and with stems of valves exposed to salt water disintegrating.

(*b*) Flushing system is in principle suitable. Flushing of crew's head, if done by a separate pump, should have larger capacity and greater reliability than obtains with electric installation now installed in the fleet, or otherwise be connected with the main system from the fireroom and engine room pumps. No connection to condenser or distiller circulating water should be fitted, which condition is understood to be fulfilled in late ships.

FRESH AND SALT WATER SYSTEMS.

59. Salt water connections to pantries are useless and should be omitted.

60. Salt water shower connections should be to separate showers and not interconnected with fresh water system. They are seldom used and one for each bathroom is believed to be ample.

61. No interconnection by three-way plugs or cross leads between fresh and salt water should be fitted.

62. Instead of having one gravity tank of considerable size for fresh water, several tanks assigned to individual parts of ship will permit accounting for the use of fresh water and consequent economy of coal.

63. Magazine floods should be of sprinkler type, flooding from the top down, as in latest designs, instead of from the bottom up, and should be operated by a quick-acting valve and provision made that valves may not be operated at any point intermediate between magazine and protective deck plates.

64. Location of plugs should be made with great care with reference to greatest accessibility, with least disturbance of stowage facilities and space.

DRAINAGE SYSTEM.

65. The secondary drain, which is used for the ordinary purposes of the ship, is satisfactory.

66. The main drain, used for removing considerable bodies of water, depends on the main condenser circulating pumps, which are placed low down.

67. To use it, the injector must first be closed, and in doing this the suction may be lost until the engine itself is flooded. The vertical spindle electric motor compartment system used on the Russian *Retvizan* seems a solution of this possible difficulty. In any case, the locking arrangements to valves should be modified so that while preserving some safety the pump can be sooner brought into use.

SCUPPERS.

68. Generally satisfactory, except as to check, which does not always function as a nonreturn. Tops and bridges should be connected to ship's scuppers, and all deck drains should be put at lowest point of space to be drained.

VENTILATION SYSTEM.

69. On the latest ships, where systems are isolated between intact watertight bulkheads, is generally satisfactory. Adjacent watertight magazines should not connect through ventilation leads. A simple form of cinder catcher may well be installed in leads to quarters and engine-room spaces. Cowls of the standard type on forecastle and quarterdeck may well be replaced by mushrooms with movable head quickly closed.

HEATERS.

70. The number and weight of steam heaters is excessive. The combined heating and ventilation system on the *Vermont* is highly spoken of, is lighter, and better from a sanitary point of view, and strongly recommended for future United States ships.

PLUMBING FIXTURES.

71. The late types are generally satisfactory. Fundamentally, when possible, fittings and spaces requiring drainage should be at least at height of present gun deck. (1) Tip basins of present type are suitable and satisfactory for firemen, but buckets are preferable for crew, with trough drainage. (2) Present system of trough water-closets for crew, with continual flush, is satisfactory, but wooden seats of present type should be discontinued in favor of parallel bearers for the buttocks, preferably of some nonporous material. (3) The needle type of shower is unsuitable for low spaces or for salt water. (4) No lavatories should be fitted in water-closets or bath spaces other than in individual bathroom for admiral, captain, and executive. (5) A bathroom for executive officer should be provided. (6) A urinal should be fitted on the bridge. (7) Bath heaters should not have both fresh and salt water connections. (8) A urinal should be provided in bathroom spaces unless a urinal space is immediately adjacent to the bathroom. (9) The provision of separate water-closets for venereal patients is recommended by many medical officers, but it is doubted if the men would comply with any such arrangement, and a certain number of seats may be marked out for this in ordinary installation if necessity seems to indicate.

INTERNAL SUBDIVISION AND ARRANGEMENT.

72. Offices. Flag office of type, size, and furnishing of that on *Connecticut* is generally suitable. Captain's office of size and arrangement of that on *Connecticut* is generally suitable. Executive officer's office of size and arrangement of that on *Connecticut* is generally suitable. Engineer's office of size and arrangement of that on *Connecticut* is generally suitable. Paymaster's office of *Connecticut* is too small and is so pronounced on most of our battle ships. The paymaster's office should have two windows for paying off; a long, high desk to take the rolls, desks for the paymaster and three writers in addition, with usual spaces for files, blanks, safe, copying press, etc. The use of the office as a sleeping space for the pay clerk or yeoman is objectionable. The office should be near the executive officer's office. Ordnance office of *Connecticut* type is generally suit-

able. Navigator's office may well be combined with chart house and emergency cabin.

73. In general, where practicable, offices should be located to have natural light and air. The flag office and captain's office in the vicinity of the quarters of those officers. The executive officer's office should be on the main deck of vessels having superstructure or on gun deck of one not so fitted and accessible to crew and near paymaster's office. The navigator's office may well be in the chart house and the ordnance office forward. The engineer's office near engine room access hatch.

STOREROOMS.

74. Storerooms are of course preferably rectilinear, but any reasonable space may be used for stores and naturally would be. Suitable provision should be made for access to and from such rooms by direct leads from weather decks and to decks on which issuing room and galleys are located. The triangular spaces between protective and berth decks are very inaccessible, and, if practicable, should not be counted in the regular available stowage space, particularly for food stores. Storerooms having flat bottoms do not need wood floors in walking spaces, and ordinarily, if anything at all is required, gratings will suffice to keep stores from damage by dampness on decks.

SHOPS.

75. A separate carpenter's shop as an inclosure is not necessary.

76. A separate blacksmith shop is desirable as permitting the stowage of blacksmith's tools and forges, pipe fitting tools, etc., which are in constant use, in an accessible place.

DYNAMO ROOMS.

77. Two widely separate rooms are desirable if they can be arranged without undue increase in complication of wiring, difficulty of operation, and weight. The advantages and disadvantages should be carefully weighed, and it is difficult to advance a positive opinion on the subject without careful preliminary study of the details of wiring in the two systems and other matters involved.

MAGAZINES.

78. After experience on this trip where the weather conditions have ranged from extreme heat to considerable cold, I do not feel that magazine refrigeration is necessary. A number of cases of heat above 90° have been reported, but only a few above 95°; these few directly traceable to metallic contact with hot steam pipes, etc.

79. The installation of such a system would involve considerable weight and added complication. It is rightly urged that powder should be kept at a uniform temperature, which would mean that if a system were installed it should operate as a heating system in cold weather and a refrigerating system in hot weather. It is believed that the disadvantages outweigh the advantages, an opinion in which the ordnance officers of the fleet seem to concur.

80. Powder could well be stowed in built-in copper tubes, and shell if stowed in shell rooms on inclines to facilitate handling to hoist by gravity.

HOSPITAL SPACES.

81. For ordinary service the amount of space provided on the *Connecticut* class since alteration seems ample.

82. The operating room should be behind armor for use in battle, and so that it will be available after battle.

83. Provision should be made for a surgeon's examining room or space to obtain some privacy for examinations, and a separate urinal, lavatory, and shelves for treatment of venereal patients in addition to the provision for toilet facilities now made.

84. The fittings of the type in sick bays and hospital places generally of *Connecticut* class are suitable.

85. Some space forward and aft suitably located behind armor should be chosen as battle stations and ready access from battery decks provided. These spaces should not be reserved for this purpose solely, but should have running water available.

GALLEYS, ETC.

86. The galleys of the general type and location as fitted on the *Connecticut* seem satisfactory. The provision of a separate butcher shop is recommended by many officers, but the extension of the galley space with provision for hanging meat would seem to make all necessary provision without the expenditure of additional weight and space. It is so fitted on the *Connecticut*, and functions satisfactorily.

GENERAL MESS PANTRY.

87. The general arrangement and type on the *Connecticut* class is suitable. The stowage of condiment boxes adjacent to this space would probably result in saving of weight. Incidentally the condiment boxes seem excessively and unnecessarily large and heavy.

BAKERY.

88. The size and arrangements provided on the *Connecticut* class are suitable. It should, however, like the galley, be located with reference to light and air and where it will not heat up valuable living spaces surrounding it, and where it will not have an excessive temperature itself. Forced ventilation is necessary and natural exhaust. Ample stowage for bread after baking should also be made.

SHIP'S WATER TANKS.

89. Should form part of the ship's structure and not be separate tanks built in, which results in a waste of space and weight.

MACHINERY SPACES AND ARRANGEMENTS.

90. **Ash ejectors**: A desirable fitting, but would not do away at all with necessity for present type of ash hoists. Ejectors are desirable

when running forced draft, and if weight can be spared, should be fitted. If the type selected for the *Delaware* functions as it is claimed, it seems to have many advantages over the type now fitted in several of our ships. The present type of ash hoists should be fitted to deliver on main deck and not through crew's space. Overhead trolleys or special deck trucks for handling buckets are not necessary, the ordinary form of baggage truck serving well.

STOREROOMS.

91. The engineer's stores are an important asset on the ship and ample provision should be made therefor, with issuing room for waste, packing, tools, etc., immediately adjacent to engine room.

92. Bar metals and similar material may well be stored in the uptake inclosures, but in such a manner as to be readily accessible and removable for transportation to deck or workshop as required.

GENERAL WORKSHOP.

93. This is in continued use and as to size and the general arrangement on the *Connecticut* is satisfactory. The question of handling material to and from this shop is important, and the access should be as easy as water-tight subdivision and location will permit. A large amount of ordnance work requires to be done in this shop and the selection and installation of machine tools should be made having this requirement in view.

LAUNDRY.

94. This is an item about which there is some difference of opinion. It is something which ships have done without for many years; is expensive in water consumption; it is hard to get satisfactory operatives, and its use is confined to officers. Considering the ship as operating individually, its drawbacks would seem to be greater than its advantage. Considering the fleet as a whole, the volume of work to be done on shore is apt to overwhelm any but a place of considerable size. I am, however, of the opinion that the laundry is not a military necessity and that it should be omitted, and washing done on shore, as it has been in the past. When fitted it should not be low down, should have ready and independent drainage, and good air supply, with exhaust arrangements for taking off escaping steam.

CHAIN LOCKERS.

95. Should have chain pipes leading into middle of a more or less square locker, and not into the end of a long narrow locker, so that the tiering of the chain will be simplified.

CENTRAL STATION COMMUNICATION ROOMS AND FIRE-CONTROL BOOTHS.

96. The present system of fire control having been developed since the design of any ship now in the fleet, it is perhaps not surprising that these spaces on ships are more or less makeshifts. The construction as to size and sound-proofing of booths now in suits very well,

but in a new design they should be laid out in accordance with the fire-control board's report, and in so doing get the station for lower steering compass free from any stray fields of dynamos.

COMPASS LOCATIONS.

97. In the few ships of the fleet where it has been possible to compensate properly the central station compass, which is generally not possible on account of its proximity to the dynamos, it has been found possible to maneuver the ship from this compass and therefore, if suitable provision for locating the compass is made, its principle is correct and valuable.

98. The steering engine room compass is entirely practicable.

99. A special study of the location of standard and deck compasses as well should be made, as much trouble is experienced in the changes in directive force due to movable masses of steel, heating of stacks, etc.

SHOWER SPACES.

100. Should be arranged so that after bathing there is space sufficient to get away from shower head and dry down.

BATHROOMS.

101. Not more than two tubs for wardroom officers, one for junior officers, and one for warrant officers should be fitted with not more than four showers for wardroom officers, three for junior officers, two for warrant officers, including those fitted over the tubs.

CHART HOUSES AND EMERGENCY CABINS.

102. With the commanding officer's quarters forward, there seems to be some doubt as to whether such an emergency cabin is necessary. With the quarters aft, it is a necessity.

103. If it is provided, a similar space should be provided for the navigator, the chart house being in front of the two spaces for officers, and the whole made as one structure.

MISCELLANEOUS FITTINGS.

104. Awnings may well be confined to those for quarter-deck and forecastle and operating bridge. These should be rigged to haul out to davits and stanchions so placed that all turret guns may be swung without each time striking awning stanchions.

105. As this will probably result in very wide spacing of such stanchions, rail stanchions should be independent and designed so as to be easily struck.

LIFE BUOYS.

106. The forward life buoy as located on the *Connecticut* is useless. It is so low that the sea washes it away. The after one is generally allright, and if another one is to be provided it should well be located about at after break of superstructure.

BAG RESTS, ETC.

107. The general type of bag racks and ditty-box racks and lockers on recent ships is O. K.

GUN-PORT SHUTTERS.

108. The circular type of gun-port shutter, with external bearing, does not operate with entire satisfaction. I have asked for suggestions from officers having these guns and shutters to operate, and have endeavored to work out an improved scheme myself, but have not succeeded without embodying some drawback more serious than the present leaks. The shutters should be in parts small enough to be readily handled and the details of fastening made with a view to quick and accurate adjustment.

COALING BOOMS AND SPANS.

109. The general type and rigging of booms on the *Connecticut*, *Kansas*, *Vermont*, and *Louisiana* is suitable. Trouble is experienced in a few cases with weakness of booms and in a few cases with cutting of boom bands and pinns into material of booms. Both these should be provided against. The spread of backstays of post on cranes of *Connecticut* should be greater. Where a coaling span can be rigged it is found to be anvantageous, particularly for coaling from a collier, and should be provided.

NUTS AND BOLTS.

110. Nuts and bolts in cabin gun ports should be of brass.

111. The number of different sizes on fittings such as air ports, gun-port shutters, and hatches should be decreased so that one wrench may serve where several are now required.

HEAVY STEEL BUCKLERS.

112. Heavy steel bucklers for 12 and 8 inch turrets are not used, and may well be omitted, retaining the canvas and wood bucklers, or a special type of canvas cover provided, acting as water excluder and air retainer referred to above.

HAWSE-PIPE BUCKLERS.

113. Hawse-pipe bucklers are seldom used now and, with the greater inclination of hawse pipe recommended, may be omitted.

ANCHORS.

114. Only patent anchors should be fitted, and anchor cranes may be omitted, or at most only one fitted.

LADDERS.

115. If a ladder as light as the Stanwood tread ladder can be designed with a closed tread, it would be desirable. The present type is dirty and undesirable for barefooted men.

SIDE LADDERS.

116. Side ladders should be of ash, as teak is too brittle, and should have a heavy rubbing strip of pine on the outboard side of present type.

WOOD FITTINGS.

117. Wood fittings should be reduced. Bottoms, where necessary to fit at all in storeroom, should be made portable so as to permit cleaning behind. Wood shutters on magazine and storeroom floors should be omitted where such floors are flat, and all wood fittings in magazines omitted.

CHOCKS.

118. Chocks should be made with greater swallow and with larger radius to prevent the short nip on hawsers given by present type. One specially large swallow chock aft and one forward should be fitted for towing purposes with a large radius of bearing.

BITTS.

119. The bitts fitted on late ships are generally satisfactory. One set of the larger size on each side forward, suitably placed with reference to towing chock, and a similar set each side aft should be fitted with proper intermediate bitts elsewhere.

BOAT DAVITS.

120. Boat davits of present type are generally satisfactory, but should be provided only for lifeboats and dingeys, and should be fitted with lowering gear so that they can be quickly and easily struck.

BOAT CRADLES.

121. Generally are of satisfactory type. Deck fittings on decks used for coaling should be made removable, so that decks may be flushed for purpose of trucking. Bearing pads for 50-foot boats should be broader and turn-buckle stronger than in case of these boats fitted on *Connecticut*. Stowage of boats on skids, which are removable in time of action, is suggested.

SECONDARY AMMUNITION HOISTS AND CONVEYORS.

122. The variable-speed arrangement most recently provided, having a maximum speed equal to the maximum rate of fire of guns, will be a decided improvement. The hoisting and delivery of ammunition in horizontal position when possible will tend to efficiency. Sending up powder tanks which have to be disposed of seems an undesirable way if suitably rigid bag can be obtained.

FURNITURE.

123. Metallic furniture is recommended. The omission of foot tubs and carling boxes, the provision of a special drawer to take the

place of carling box, and the fitting of a wardrobe so that a reasonable number of coats and trousers in hangers may be accommodated. Wardroom chairs should have backs modified so that buttons of the dress coat do not foul. Lockers, bookcases, and sideboards should have spring catches to all swinging doors.

BOATS.

124. Exclusive of boats required for staff purposes, the following seems a suitable outfit: One 50-foot steamer; two 40-foot steamers; two 36-foot sailing launches, with reliable gasoline engines for auxiliary purposes; two 30-foot cutters; one racing cutter; two whaleboats for lifeboats (one fitted as gig), and one wherry or dingey.

ALLOWANCE.

125. In the matter of shellac, there is a general agreement as to its insufficiency, in which opinion I concur. It should be increased 50 per cent. An extension of the amount allowed in some other items and reduction of still others seems desirable, though it seems an open question as to whether the ships should be expected to carry at one time all the items allowed for a considerable period, and a system of credits permitting a ship wherever she may be to draw up to a certain amount, as required, would probably reduce the requirements as to carrying an excessive amount.

CONDUIT.

126. The use of conduit to the extent heretofore practiced is to be deplored; except where the wire is exposed to mechanical injury conduit were better omitted, as is constantly evidenced in service. A recent limitation of the use is a step forward.

SHEATHING FOR INSULATION.

127. On the most recent ships seems to fulfill its intended function satisfactorily and should be provided, as now, for spaces exposed to extreme heat or cold. Suitable hand-holes for examination behind such sheathing and behind mantlet plates are desirable.

AIR PORTS.

128. Some trouble with breakage of glasses has been experienced, indicating an uneven strain due to two-dog ports. It is suggested that a three-dog port might be designed, giving a more even bearing. This port should not use hinge as a point of closure.

WATERWAY GRATINGS.

129. Should be omitted except in wake of gangways and leadsman's platforms.

SIGNAL LOCKERS.

130. Latest developed type as fitted on after-bridge of *Connecticut* seems satisfactory.

COAL BAGS AND GEAR.

131. Stowage for these should be provided, including shovels, blocks, and gear, in a suitable space in the hold or in part of one of the coal bunkers and an inclosed direct trunk to weather deck provided. This provision is recommended so that the gear may not be expended in action, cause trouble by fire, or scatter dirt through the living spaces when handling to and from place of stowage.

HAMMOCKS.

132. Many years ago hammocks were stowed along the rail for two reasons: One to prevent splinters, and the other because this stowage did not interfere with other things. Neither reason generally obtains now, and there is a further drawback that hammocks so stowed are liable to ignition from exploding shell and cause trouble from smoke. Stowage behind armor where easily accessible for serving out and stowage is desirable.

TOILET FIXTURES.

133. The stateroom toilet fixtures of most recent ships are of very suitable type.

BOW ORNAMENT.

134. This is a fitting heavy, expensive, and serving no other purpose than decoration, and should be omiited, or reduced to something smaller than is generally fitted. The *Kansas* has a very suitable type.

ASH CHUTES.

135. Should extend to upper deck.

PAINT.

136. The spar color paint now used for upper works is not a desirable paint. It has no body, quickly washes away, and will not stand scrubbing. I recommend the use of a blue-gray paint in its place, believing that the color is more suitable and that with the constituents required for such a color a more durable paint may be obtained.

BATTLE LIGHTING CIRCUIT.

137. It would seem that an arrangement of such circuits should be made so that the lights behind armor and below protective deck where they can not show from outside may burn freely in battle, as it is essential that these places be well lighted at such times.

INTERNAL DRAFT GAUGES.

138. Where suitably located are very desirable.

TARPAULIN BATTENS.

139. I believe tarpaulin battens should be fitted to all gun-deck hatches on ships having a gun-deck battery unless metal covers are fitted. The number of gratings for hatches may be materially reduced with advantage.

SAND AND WASH DECK GEAR LOCKERS.

140. Should be located high up in convenient locations and distributed to various parts of ship so as to be readily accessible for use in peace times and so that the gear may be thrown overboard in time of war.

BATTALION LOCKERS.

141. Are not believed to be necessary. The use of the ship's company as a landing party in the case of a battle ship is probably so remote a contingency that due warning would be had so that the stowage of such gear in a regular storeroom below would serve all purposes.

POST-OFFICE.

142. The provision of a set of pigeonholes adjacent to or part of canteen (one pigeonhole for each initial letter) will facilitate distribution of mail.

ABANDON SHIP LOCKERS.

143. I do not believe that special provision for those above decks is necessary. There are not enough boats to abandon ship now and the provision of special lockers seems to cause unnecessary and unwarranted use of space above decks, where they might be stowed in a suitable storeroom below with straight lead to weather deck.

BOOKCASES.

144. The present type of, generally O. K., but should be so constructed as to be readily and quickly thrown overboard.

Very respectfully,

R. H. ROBINSON,
Naval Constructor, U. S. Navy.

The COMMANDER IN CHIEF UNITED STATES ATLANTIC FLEET,
U. S. S. Connecticut, Flagship.

[First indorsement.]

Respectfully forwarded to the Navy Department in connection with my letter No. 639, of this date.

R. D. EVANS,
Rear-Admiral, U. S. Navy,
Commander in Chief United States Atlantic Fleet.

6.

Letter of the Secretary of the Navy transmitting supplementary statement of the Chief Constructor of the Navy in relation to alleged structural defects in battle ships.

NAVY DEPARTMENT,
Washington, April 15, 1908

MY DEAR SENATOR HALE: There is forwarded herewith the supplementary statement of the Chief Constructor in relation to certain alleged defects in battle ships of the United States Navy. The Department's letter to you, under date of March 9, 1908, fully expressed its views concerning this subject, and subsequent report received from the commander in chief of the Atlantic Fleet and the naval constructor attached to his staff has strengthed the conviction which I previously entertained with respect to the location of water-line armor, height of freeboard, height of gun axes, etc. Admiral Evans in his recent report makes allusion to the inability to fight the broadside guns under certain conditions of weather, and states that such guns are not high enough for efficiency under all conditions. This criticism is likewise applicable to the majority of broadside guns of battle ships of all navies wherever such guns are mounted below the main deck, as in the case of the British, Japanese, and German navies. It may be remarked, in passing, that such a location is the only available one for the majority of guns of the intermediate battery on all battle ships built or building, and in the United States Navy the height of such secondary battery guns above the water is somewhat greater than the height of similarly located guns in the majority of battle ships of the British, German, and Japanese navies. In our battle ships of the *Delaware* and *South Carolina* classes now in course of construction this criticism concerning intermediate battery guns has little force, inasmuch as the main battery is concentrated in heavy guns mounted in turrets on the upper decks, the intermediate battery being required solely for defense against torpedo-boat destroyers and torpedo boats.

In view of the misunderstanding which seems to exist in some quarters as to the degree of responsibility of Admiral Converse and the Chief Constructor for alleged defects in battle ships now attached to the Atlantic Fleet, it seems proper for me to emphasize definitely the fact that neither Admiral Converse nor Admiral Capps had any responsibilty whatever for the designs of battle ships now in active service, and therefore the exhaustive reports of those officers concerning alleged defects in naval matériel should be accepted without qualification as being the impartial report of officers who have no personal responsibility for the designs of the ships of the fleet recently under criticism, but whose official position gives them unusual opportunity to know all the facts pertaining to the method of developing designs of those vessels and the good results which have so far been obtained in their subsequent construction.

There are also forwarded herewith, for the information of your committee, copies of the recent reports of Admiral Evans and Naval Constructor Robinson concerning the behavior of vessels of the Atlantic Fleet during the passage from Hampton Roads to Magdalena

Bay, also their comment for the information of the Department in connection with future design work. Practically all of the criticism contained in these reports had already been discounted and disposed of in the designs of the *Delaware* and *North Dakota* class. Although detailed comment upon the above-noted report is now in course of preparation by the Board on Construction, I have deemed it advisable to forward the report at this time for the general information of the committee, although it is my opinion that they should not be published, and certainly not in advance of the preparation of the detailed comments thereon.

Very truly, yours,

V. H. METCALF,
Secretary.

Hon. EUGENE HALE,
Chairman Committee on Naval Affairs,
United States Senate.

7.

Supplemental statement of the Chief Constructor of the Navy in relation to alleged defects in naval vessels.

BUREAU OF CONSTRUCTION AND REPAIR,
NAVY DEPARTMENT,
Washington, D. C., April 13, 1908.

SIR: In conformity with the request of the committee, I have the honor to submit the following supplemental statement concerning certain matters relating to naval matériel. In order that this statement may be as brief as possible, no attempt will be made to cover ground which has already been fully covered, except where further comment may appear to be necessary for the complete and comprehensive disposition of such criticism as may not have been already disposed of. No attempt will be made to traverse in detail the evidence of critics who have appeared before the committee, since it is understood that this is not desired. Failure, therefore to take note of such criticism should not be construed as indicating that such criticism is founded on fact.

It also appears to be desirable, at the very beginning of this supplementary statement, to emphasize the fact that practically all of the criticism to which our battle ships have recently been subjected is directed against completed vessels, and does not apply to any material extent to vessels which have been designed during the past four years. The only criticism directed at the vessels of the *Delaware* class, for instance, is that affecting the submergence of the lower edge of the main water-line belt armor, and the original criticism with respect to the location of this armor has been so materially modified as to be negligible, and would appear to have been fully and completely disposed of by the letter of the Secretary of the Navy to the chairman of the Senate naval committee under date of March 9, 1908, and by subsequent specific comment of Admiral Evans, commander in chief of the Atlantic Fleet, in his letter of March 6, 1908.

The location of the water-line belt armor on the *South Carolina* and *Michigan* being practically identical with that of similar armor on the *Delaware* and *North Dakota*, the disposition of such criticism with respect to the *Delaware* necessarily includes the *South Carolina* and *Michigan*.

It is true that the freeboard forward on the *South Carolina* is lower than that on the *Delaware*, and the freeboard aft is one deck height less than the after freeboard on the *Delaware*. It should be specifically noted, however, that the *South Carolina* and *Michigan* were designed to meet the specific provision of the act of Congress for the most powerful battle ship on a trial displacement of 16,000 tons. That the designers of the *South Carolina* and *Michigan* met these requirements of Congress in a most satisfactory manner would seem to be fully proved by the unusually commendatory comments concerning this design, which have appeared in foreign publications already quoted in the Chief Constructor's special report of February 14, 1908, and by specific and direct approval of seagoing officers of our own Navy. A recent evaluation (prepared by a foreign naval officer) of the fighting strength of battle ships of the principal navies of the world ascribes to the *South Carolina* the maximum fighting efficiency of any ship considered, the U. S. S. *South Carolina* being placed as No. 1, with the British *Dreadnought* No. 2. This will doubtless be considered by certain critics as a too partial judgment of the good points of the *South Carolina* as compared with the *Dreadnought*. It is well to remember, however, that the broadside battery of the *South Carolina* is equal to that of the *Dreadnought*, the target area is less, and the armor protection unquestionably greater, the points of inferiority being those of speed, and, in a heavy seaway, a freeboard which would place the *South Carolina* at a slight disadvantage as compared with the *Dreadnought*.

With regard to the freeboard of the *South Carolina*, it should be noted that the freeboard forward is practically identical with that of the latest Japanese battle ships, and also almost identical with that of battle ships of the highest freeboard now attached to the Atlantic Battle Ship Fleet. It is also equal, or superior, to that of all battle ships of the Japanese navy which participated in the battle of the Sea of Japan, and is approximately equal to the freeboard of the large majority of the battle ships of the British navy designed prior to 1905. The freeboard aft is in conformity with the design of battle ship most highly approved by the Walker board in 1896, also by the General Board in 1903 and 1904, so that the general features of the *South Carolina* class, so far as concerns freeboard, both forward and aft, would appear to have met with the entire approval of some of the most distinguished officers (seagoing) of the United States Navy.

The battery arrangements of the *South Carolina* and *Delaware* classes are such as to give the maximum broadside fire for the heavy guns, and in this respect these vessels have a distinct advantage over foreign battle ships whose battery arrangement has been developed on different lines.

In view of the very complete data already submitted for the consideration of your committee, it does not appear to be necessary to devote further attention to the characteristics of the *South Carolina* and *Delaware* classes.

With respect to the general criticisms which have been made concerning the disposition of water-line belt armor, freeboard, height of gun axes, etc., on battle ships now attached to the fleet, it would seem that the committee had already been fully advised as to the facts. It appears, however, that there are those who lay special stress upon the insufficient height of the after heavy guns of vessels of the *Iowa*, *Alabama*, *Maine*, *Mississippi*, and *South Carolina* classes, and who claim that that feature of those vessels is gravely in error. In this connection it seems only necessary to invite attention to the fact that the Walker board in 1896 specially commended the arrangement of freeboard on the *Iowa*, and for the battle ships then under consideration by that board recommended that—

> They should have high freeboard forward and low freeboard aft, substantially like the *Iowa*

Also, the General Board, in a communication dated December 15, 1903, in which it set forth the characteristics which should be embodied in battle ships of about 16,000 tons, stated specifically that they should—

> Have high freeboard forward. In this respect the *Iowa* type impresses favorably.

It is worthy of note that all the military and seagoing characteristics of each battle ship built for the United States Navy have been passed upon by a board of officers a majority of whose members belong to the seagoing branch of the Navy, and that the designs of each battle ship are approved by the Secretary of the Navy before advertisement for their construction is made.

It may also be noted that officers who have commanded vessels of this type have reported that all the guns of the main battery could be fought in any weather in which battles are likely to be fought. Reports have also been recently received from the commander in chief of the Atlantic Battle Ship Fleet and the naval constructor attached to his staff which state that while a somewhat higher turret gun forward would be desirable to fight with full efficiency at 15 knots in a trade-wind sea, no weather was encountered on the recent voyage of the Atlantic Fleet where turret guns would be out of action, except so far as flying spray in a few cases might have affected the gun sights, this last condition, however, being one which a few additional feet freeboard forward would not remedy.

The report of the Chief Constructor of February 14, 1908, and the appendixes thereto, which are part of the testimony before your committee, give in considerable detail the principal characteristics of the battle ships of the United States Navy, as well as those of typical battle ships of foreign navies. The heights of freeboard, heights of gun axes, and location of water-line armor therein set forth were determined with the greatest accuracy possible, and, subject to the correction of minor errors, principally typographical, the data therein contained is believed to be as accurate as can be determined from the information accessible to the Navy Department and its bureaus and officers.

The tables above referred to show that the battle ships now in commission in the United States Navy are in no sense at a disadvantage as to freeboard, gun heights, and arrangement of armor as compared with vessels of the principal foreign navies.

As distinctly stated, the data given in the tables was for the "designed" displacement, in as much as the most accurate information available concerning foreign ships was based upon that displacement. The "deep load" characteristics for battle ships of our own and foreign services would vary in approximately the same degree as those given for the "designed" displacement in the table.

It is believed that in certain foreign designs full allowance of ammunition and stores is provided, instead of the two-thirds allowance provided for American vessels, but this would not ordinarily involve a difference in draft, freeboard, etc., of more than 4 inches. On the other hand, the coal carried at designed displacement in the very large majority of foreign battle ships is no greater than that carried by battle ships of the United States Navy, and is in many cases less, as is fully set forth in the table given in Appendix A.

It should also be noted that any attempt to determine the overdrafts of vessels by taking the recorded "log" drafts and making allowance for the difference between the actual coal reported on board and the coal provided to be carried on the designed displacement is entirely misleading and inaccurate. Such a method, as ordinarily carried out, involves errors due to inaccuracies in the recorded log draft; errors due to differences in density of water; errors due to failure to take into consideration the actual stores, ammunition, etc., on board; errors due to inaccurate log reports as to coal actually on board; failure to take into account the excess water in trimming tanks, double bottoms, etc.—this last-named item alone on certain battle ships of the Atlantic Fleet during the recent voyage to the Pacific coast having involved as much as 500 to 800 tons additional weight. Any estimate of overdraft, therefore, based upon the draft of the ship and the amount of coal on board, as recorded in the log, would seem to be too obviously inaccurate to require further comment.

The actual overdraft of vessels of the United States Navy, as compared with their designed drafts, are carefully and accurately determined immediately after delivery of the vessels to the Government, so that the errors noted in the preceding paragraph are entirely eliminated. Accurate data so obtained shows that of the battle ships now attached to the Atlantic Fleet the *Virginia* had the greatest overdraft, as compared with her designed draft, the overdraft in the case of the *Virginia* being 11 inches. The maximum overdraft of the other vessels of the *Virginia* class was 9½ inches. The overdraft of the five vessels of the *Connecticut* class varied from 4½ to 6 inches. The overdraft of the other seven battle ships of the fleet was 3¼ inches for the *Alabama*, 3¾ inches for the *Missouri*, and 6 inches for the *Ohio*, 7¼ inches for the *Kearsarge*, *Kentucky*, and *Illinois*, and 9¾ inches for the *Maine*.

As noted in previous reports and testimony, the overdrafts of United States battle ships were largely due to changes and additions which were made after the approval of the designs, and, in many instances, after the actual construction of the vessels had been advanced to a considerable extent; and where there were differences in overdrafts on sister ships these differences were largely attributable to difference in type of boilers and details of machinery installation.

Before dismissing the subject of overdrafts of battle ships it is worthy of special note that the last three battle ships completed, namely, the *New Hampshire*, *Idaho*, and *Mississippi*, have been con-

structed quite within the designed estimate of weight, so that those vessels will be slightly underdraft instead of overdraft. In explanation of this condition it is merely necessary to state that the development of details and the changes authorized on those vessels subsequent to the approval of the designs were such as to not materially increase the displacement of the vessels.

The completion of battle ships, or any other class of ships, within the "designed" displacement is almost entirely a question of adhering to the original features of design. If radical changes are made in this design, involving large additional weight, overdraft for the completed vessel must inevitably be expected.

In view of the foregoing statements and the mass of evidence already offered concerning the location of water-line armor on battle ships, it would seem quite unnecessary to dwell further upon this phase of recent naval criticism, so that I will dismiss it by quoting the following extract from the latest communication on this subject, contained in a letter addressed to the Secretary of the Navy by the commander in chief of the Atlantic Fleet under date of March 17, 1908:

> Even with smooth seas and practically no wind the swell at times caused such rolling and pitching as to *expose* the *lower portion* of the *armor belt even at heavy load, hence* the *lower limit* of *armor should not be raised.*

(Italicizing not author's.)

The above is too definite and conclusive to require any comment other than that those vessels were, in many instances, heavily overladen, and the lower edge of the armor was therefore immersed in many cases more than 7 feet.

FREEBOARD AND GUN HEIGHTS.

The data already submitted to the committee with respect to freeboard, both on our own and foreign battle ships, would seem to be quite sufficient to preclude the necessity of making extensive allusion thereto in this supplementary statement. The present tendency in battle-ship design is to concentrate the heavy battery in turrets mounted upon the upper deck, and, for our latest vessels, those of the *Delaware* class, to have a freeboard forward one deck height higher than was formerly the case. The major part of the intermediate battery for torpedo defense must of necessity be mounted "between decks."

The tables already submitted give accurate data concerning the freeboard, gun heights, etc., of United States and typical foreign battle ships, and the most casual inspection of such tables indicates that the United States is at no disadvantage with respect to freeboard and gun heights as compared with battle ships of foreign navies. The low freeboard aft on certain United States battle ships has already been considered and disposed of and requires no further attention.

It is worthy of note that an officer who has only recently returned from Japan, and who has had unusual opportunity to communicate with Japanese naval officers, confirms the statement previously made that the most recent design of Japanese battle ships provides for a moderate freeboard, approximately equal to that of the *Connecticut* class, and that for designs in prospect, which contemplate a vessel even larger, the Japanese have no intention of increasing

their height of freeboard. The latest design of battle ship in the United States Navy, it may be noted, has more than 5 feet greater freeboard forward than the latest designed Japanese battle ship.

TRIAL TRIPS OF NAVAL VESSELS.

Judging from questions asked by various members of the committee, and the replies thereto by witnesses, there would seem to be a very imperfect understanding in the minds of many as to the contract requirements for trial trips of naval vessels and the rigor with which such contract requirements are enforced. At the request of the committee there are hereto attached a copy of the contract for the *Delaware* and a copy of the contract for the *Louisiana*. (Appendixes B and C.)

Allusion having been made during the progress of this investigation to the practice of the Navy Department of giving bonuses for speed in excess of the contract requirements, it should be noted that the contracts for naval vessels have contained no provision for the granting of a speed bonus since January, 1894—more than fourteen years ago. None of the battle ships now attached to the Atlantic Fleet were subject to bonuses for speed in excess of the contract requirements.

It would also appear that there are those who believe that naval vessels never attain in actual service the speed called for by the contracts for those vessels. As a matter of fact, not only is the contract speed of United States naval vessels attained during the official trial, under the rigidly enforced conditions specifically provided in the contract, but with boilers and machinery in good condition and with clean bottoms the "contract speed" has been attained in actual service by a large number of naval vessels when much more heavily loaded than they were during their contract trials. With hull and machinery in the condition just indicated, and engines developing the horsepower which was actually obtained on their trial trips, the majority of the United States battle ships could attain their contract speed with all stores on board and bunkers full of coal. The *Minnesota*, a representative of the five most recently designed battle ships now attached to the Atlantic Fleet, has since her delivery to the Government, and with a naval crew, exceeded by more than eight-tenths of a knot the speed required by the contract—and this with all stores and ammunition on board and bunkers nearly full of coal.

As a matter of fact, the contract trials of vessels built for the United States Navy are most carefully conducted, the vessels being loaded to such a draft that the mean displacement during the official trial will be that required by the contract. Judging by reports contained in scientific journals, many vessels of the British navy have been tried at a displacement considerably less than their designed displacement. Such a condition has never obtained in the contract trials of United States naval vessels, and should a United States naval vessel, when subjected to trial, be lacking in any portion of the armor, armament, outfit, fittings, ammunition, stores, etc., allowance therefor is made by the addition of an equivalent weight of water in the double bottoms or trimming tanks or by placing an additional allowance of coal in the bunkers.

So far as the designer is concerned, there would be no difficulty whatever in having the contract trials conducted at a deep-load dis-

placement, with all stores and ammunition on board and the bunkers full of coal, rather than at a less displacement, with a certain proportion of stores and ammunition on board and an arbitrary amount of coal in the bunkers. If such a method should be adopted, however. the Navy Department would not derive any benefit therefrom, since allowance would necessarily be made for the anticipated decrease in speed which such an increase in displacement would involve. Moreover, the data so obtained would not be comparable with that obtained from similar vessels previously tried in the United States Navy, as well as in foreign navies, and in any comparison resulting therefrom the vessels of the United States Navy, when tried at their deep-load displacement, would appear at a disadvantage as compared with foreign vessels tried at a displacement considerably less than the deep-load displacement.

It is worthy of special note, however, that the difference in speed due to the difference in displacement of the vessel at trial load and deep load would not be the "2 or 3 knots" mentioned in the testimony before the committee. As a matter of fact, for battle ships now attached to the United States Atlantic Fleet, as well as those in course of construction, the speed at deep-load displacement, with all stores, ammunition etc., on board, and bunkers full of coal, would rarely be as much as one-third of a knot below that at the trial displacement when the engines were developing the same horsepower. This reduction of one-third of a knot in speed would be approximately the maximum and would only occur at high speeds. At low speeds the reduction, due to increase in displacement, would be proportionately less, the horsepower, of course, being assumed to remain the same at the trial and deep-load displacements.

In this supplementary statement I have merely attempted to bring out more clearly facts which would assist the committee in arriving at correct conclusions concerning the characteristics of battle ships of the United States Navy and the conditions under which their designs have been developed. The somewhat extensive allusion that has been made in previous reports and in the testimony to foreign practice, and especially to the case of the *Royal Sovereign*, was deemed necessary in order that the committee might fully understand foreign procedure in such matters. The case of the *Royal Sovereign* was given particular prominence on account of the very extensive technical criticism which the designs of that vessel received. The comment contained in the report of the Chief Constructor, of February 14, 1908. and the diagrams and tables thereto attached should leave no possible doubt in the mind of anyone as to the characteristics which it was desired to specially emphasize in connection with the consideration of the designs of the *Royal Sovereign* class. These were obviously "height of freeboard," "height of gun axes," and "location of the lower edge of the water-line belt armor." That the vessels of the *Alabama*, *Maine*, *Idaho*, and *South Carolina* classes had low freeboard aft had no particular bearing upon the case, especially since the fact that these vessels had a low freebroad aft was fully set forth in the tables. Nor was it a matter requiring special note that the upper belt armor of certain groups of battle ships in the British navy was of the same thickness as the lower belt armor. especially when 12 battle ships in the British navy whose upper *belt was of* the same thickness as the lower belt had main water-line *armor whose* maximum thickness was just equal to or less than the

upper belt armor of the *Vermont* class. All the pertinent facts in the case were fully set forth in the text or the tabular statements; and unless the text of the report had been extended to quite unjustifiable length, it had to be assumed that those who may desire to indulge in criticism will take the trouble to look over the tabular data and appendices as well as the body of any report whenever in doubt as to the exact meaning of the text.

In conclusion, I beg to repeat the brief summary statement contained on pages 70 and 71 of the Chief Constructor's hearing before the Senate Naval Committee on Senate bill No. 3335, as follows:

To make a very brief summary of the salient points of this morning's hearing, I should like to state that the principal subjects of criticism, so far as they concern the Bureau of Construction and Repair, were the "height of freeboard," the "height of gun axes," and the "distribution of water-line belt armor."

I showed, I think, conclusively, and made reference to reports and previous hearings, that these three subjects have already been given the most serious consideration not only in our own, but in foreign navies; that a very eminent Board of Admiralty, fortified by the unanimous opinion of some of the most distinguishd officers of the British navy, had fully passed upon these subjects; that an equally conspicuous board in our own service, presided over by the late Admiral John G. Walker, had in 1896 given a most positive statement as to the essential characteristics of a battle ship, making specific comment concerning "freeboard," "gun heights," and location of water-line armor belt; that the General Board of the Navy, as recently as 1903–4, had still further reenforced previous service opinion as to the freeboard requisite in a battle ship and had named the *Iowa* as a type which impressed favorably; the *Iowa*, be it noted, having less freeboard than any of the battle ships of the present Atlantic Fleet except the *Kearsarge* and *Kentucky*; also that the question of distribution of water-line armor had been given the most careful consideration in connection with each design of battle ship developed; that the designs of all United States battle ships were passed upon by the Board on Construction, the majority of whose members were seagoing officers; that at all times the Construction Bureau of the Navy Department has been in the closest touch with the seagoing element of the service; that the officers of the construction corps are selected from specially qualified officers of the line, are then given additional instruction in naval architecture, and ultimately transferred to the construction corps, full details as to the method of selection and subsequent training being given in the special reports heretofore alluded to; that all of the ships of the British navy and the Japanese navy, with the exception of the latest type, the *Dreadnought*, and possibly the *Majestics*, had approximately the same height of freeboard, height of gun axes, etc., as American vessels of approximately the same date; that the Japanese battle ships engaged in the battle of the Sea of Japan were designed and built in England and followed in their design the British school, having moderate freeboard; that the Japanese battle ships in the battle of the Sea of Japan appeared to have no difficulty whatever in fighting their batteries to great advantage in spite of the character of the weather, which was described by Mr. Reuterdahl himself as being "nearly a gale."

There seems, therefore, no possible escape from the conclusion that the "freeboards," "heights of gun axes," "water-line distribution of armor," etc., of battle ships of the United States Navy have been based upon the best possible judgment of representative officers of the seagoing branch of our own and foreign service, and that the battle ships of the United States Navy are in these respects fully equal to similar vessels in the British and Japanese navies.

The most recent information received from the commander in chief of the Atlantic Fleet, from the naval constructor attached to his staff, and from an officer who has recently returned from an inspection of certain foreign dockyards fully convinces me of the accuracy of statements heretofore made in my reports and the testimony before the committees of Congress concerning the general excellence of battle ships of the United States Navy, not only as regards vessels in course of construction, but those in commission and

attached to the Atlantic Fleet, due allowance being made, of course, for those developments in naval matériel subsequent to the completion of certain battle ships now in active service.

There are attached hereto, as requested by the committee, copies of the contracts for the *Delaware* and *Louisiana*, a copy of the report of the Board of which Admiral J. G. Walker, U. S. Navy, was president, submitted to the Navy Department under date of May 18, 1896, and a copy of the report of the special turret board; also tabular statement giving lengths and widths of side armor on United States battle ships.

Very respectfully,

W. L. CAPPS,
Chief Constructor, U. S. Navy,
Chief of Bureau.

Hon. EUGENE HALE,
Chairman Committee on Naval Affairs,
United States Senate.
(Through Secretary of the Navy.)

[Appendix to accompany supplemental report of Chief Constructor of the Navy, dated April 13, 1908.]

Table of normal coal and full coal for United States and various foreign battle ships.

Nation and ship.	Displacement.	Normal coal.	Full coal.	Per cent of full coal.
United States:				
Delaware (2 vessels)	20,000	1,000	2,500	40.0
Michigan (2 vessels)	16,000	900	2,200	40.9
Kansas (4 vessels)	16,000	900	2,200	40.9
Idaho (2 vessels)	13,000	600	1,750	34.3
Connecticut (2 vessels)	16,000	900	2,200	40.9
New Jersey (5 vessels)	14,948	900	1,900	47.4
Maine (3 vessels)	12,500	1,000	2,000	50.0
Alabama (3 vessels)	11,552	850	1,200	66.7
Kearsarge (2 vessels)	11,500	410	1,210	33.9
Iowa	11,410	625	1,780	35.1
Indiana (3 vessels)	10,288	400	1,800	22.2
England:				
St. Vincent (3 vessels)	19,250	900	2,700	33.0
Bellerophon (3 vessels)	18,600	900	2,700	33.0
Lord Nelson (2 vessels)	16,500	900	2,500	36.0
King Edward (8 vessels)	16,350	950	2,150	44.0
Swiftshure (2 vessels)	11,800	800	2,000	40.0
Duncan (5 vessels)	14,000	900	2,000	45.0
London (3 vessels)	15,000	900	2,100	43.0
Formidable (3 vessels)	15,000	900	2,200	41.0
Canopus (6 vessels)	13,000	800	1,850	43.0
Majestic (9 vessels)	14,900	900	2,200	41.0
Royal Sovereign (7 vessels)	14,100	900	1,800	50.0
France:				
Liberte (4 vessels)	13,865	905	1,825	49.5
Danton (6 vessels)	18,400	965	2,072	47.0
Republique (2 vessels)	14,635	905	1,825	49.5
Suffren	12,530	1,100	1,820	60.0
Gaulois (3 vessels)	11,108	680	1,100	62.0
Bouvet	12,000	620	800	78.0
Japan:				
Aki (2 vessels)	19,800	750	3,000	25.0
Katori (2 vessels)	16,400	750	2,100	36.0
Mikasa	15,300	700	1,600	44.0
Shikishima (2 vessels)	15,200	700	1,550	45.0
Iwami [a]	13,300	600	1,200	50.0
Germany:				
Braunschweig (5 vessels)	13,200	700	1,650	50.0
Deutschland (5 vessels)	13,200	850	1,700	44.0
Wittlesback (5 vessels)	11,830	650	1,750	47.0
Kaiser Class (5 vessels)	11,150	650	1,050	62.0
Brandenburg	10,060	600	1,050	57.0

[a] Ex-Russian Orel.

8.

DEPARTMENT OF THE NAVY,
GENERAL BOARD,
Washington, April 16, 1908.

SIR: In accordance with the instructions contained in your letter of the 14th instant, No. 26000–6, to submit a brief communication embodying the substance of the statements with respect to the location of the water-line armor on our battle ships and the general excellence of our battle ships, as made to you in conversation, I have the honor to submit the following:

1. During the recent voyage of the Atlantic Fleet it was observed on many occasions in the moderate seas which were met with, particularly in the trade-wind sea from Trinidad to Rio de Janeiro, that the whole of the armor belts below the water line on the ships of the fleet was exposed. In discussion of this fact with other officers of the fleet it was the consensus of opinion, so far as I know it, that the position of the lower limit of the armor belts should not be raised for the reason that if in a moderate trade-wind sea the lower edge of the armor belt is exposed, the damage possible by a shot under the armor belt would be enormously greater than a much heavier projectile could inflict striking above the water-line belt. That is to say, that the protection afforded by the present width of armor belt in its present position is greater than if it were raised.

2. The exposure of the lower edge of the armor belt was noticeable even when the ships were deeply laden with coal and stores, as well as with double bottoms filled with fresh feed water for boilers.

3. In my opinion our ships, class for class and of corresponding date of construction, are the equals of the ships of any other nation, and in many respects the superiors. They are as well protected by armor, have rather more offensive power, are as fast, and have as great a steaming radius as ships of the same date and class in other navies.

4. In conclusion, I beg to emphasize my belief that our ships are as efficient in design and construction as those of the same date in other navies.

Very respectfully,

R. R. INGERSOLL,
Captain, United States Navy.

The SECRETARY OF THE NAVY.

[Boston Evening Transcript, Tuesday, April 21, 1908.]

AMERICAN NAVY SECOND—SIR WILLIAM HENRY WHITE PAYS TRIBUTE.

Sir William Henry White, K. C. B., F. R. S., was in Boston yesterday and last evening attended a dinner at the Tavern Club, tendered him by Josiah B. Millet, at which prominent naval officers of Boston were present. Sir William was for nearly twenty years, or up to 1902, the responsible designer of all British war ships, and in knowledge of naval construction he is not surpassed by any man in

the world. He is also deeply interested in American naval affairs and naval officers. Rear-Admiral F. T. Bowles, former Chief Constructor, United States Navy, and now president of the Fore River Engine Company, and Rear-Admiral Capps, present Chief Constructor, were both his pupils in naval construction. It was this interest in our naval programme that induced Sir William to reply at length to a reporter's questions regarding the faults in our Navy as outlined by Henry Reuterdahl in McClures Magazine. He plunged at once in medias res:

Reuterdahl says in his article that the American ships are greatly inferior to foreign ships. He says that the thick armor in the water-line region, called the armor belt, is the life of the ship, and that, in the American ships, is only 6 to 9 inches above the water when they are loaded up for sea, while in foreign ships the corresponding belt armor is better placed. And he speaks of the British *Dreadnought* as being in every way superior, as far as belt armor defense is concerned, to the American ships.

Now, I say he is all wrong as to his facts. The American ships, when they are floating at what is called their normal water line in still water and upright. have their belt armor about 2½ to 3 feet above that water line. You see that is the hypothetical water line—when the ship has certain weights on board. not representing her full load. The American official reports show that when the ships of the American Navy are fully laden they are about 27 inches deeper than that. And then the thick armor belt in the region of that water line still is about from 6 to 9 inches above water. So far Reuterdahl is correct. But he is absolutely wrong in regard to the *Dreadnought's* thick armor belt. When the *Dreadnought* is fully laden she is drawing from 4 to 4½ feet more than at her normal water line, and her thick armor belt is then a foot to 18 inches below water, and she is left with a height of armor only 4 to 4½ feet above the surface in still water.

The American ships when fully laden are about 27 inches deeper than at the normal line. The *Dreadnought* is 4 to 4½ feet deeper—about twice. The American ships fully laden have their thick armor belt 6 to 9 inches still above water. The English ship has her corresponding thick armor a foot to 18 inches below water. And the English ship's defense on the sides is then restricted to armor that rises 4 to 4½ feet above water and is only 8 inches thick. The American ships of the *Connecticut* class have on their sides, for a considerable portion of their length, a vertical armor corresponding to the 8-inch armor of the *Dreadnought*—it may be a little less than 8 inches—extending 16 feet above water. So that as far as the *Dreadnought* and the *Connecticut* are concerned, the *Connecticut* is better protected above the water line.

Now, this belt armor, in my opinion, is only a fetich. If the ship is upright and at rest in still water, and you have that thick armor belt at the water line, that portion of the ship would be of course well protected. But that portion, as a matter of fact, is the most difficult to hit. If the shots fall ever so little short, they will ricochet and turn up. If they are high in elevation, of course they will pass over the thick armor belt.

That water line is never the real water line when the ship is at sea. If the ship is moving, the waves formed by her motion in still water will bury that thick armor—that water line. If there are waves passing the ship, they rise above that thick armor. If the ship heels over ever so little, this belt goes under water, no matter where it is placed.

These considerations led me twenty years ago to recommend to the English Admiralty that they should abolish the thick armor. And my design, which was used exclusively for a period of sixteen years, made the armor a uniform thickness from the main deck down.

My first designs which were accepted had the thick water-line belt. But in 1888 I recommended the other course. In the *Royal Sovereign* class the armor rose about 9 to 10 feet above the normal water line and about 5½ feet below. That is to say, the side armor was 15 to 16 feet in width. Naval opinion of that day was exactly that which Reuterdahl now holds. And so we had armor at the water line 10 inches thick and that went 3 feet above the water line. For the rest of the height it was 5 inches thick.

Previously there was no armor above the belt. The armor was all at the *water line*. The Germans have built ships within the last twelve years like *that*—simply a belt and no side armor above.

What I wanted to do was, instead of having a 10-inch armor belt at the water line and a 5-inch armor above that, to distribute that weight uniformly over the same area. And in the *Majestic* class—which was the original of all modern battle ships, and which I designed about 1893—I was allowed to make the armor on the hull uniformly 9 inches thick, and did so. So that there is a wall armor of the same depth as in the *Royal Sovereign* class and of the same weight, but it had a uniform thickness of 9 inches all the way up.

We have followed that design in England until the *Dreadnought* was built, and of course with her I had nothing to do. In the *Dreadnought* they revert to the thick water-line belt, which, as I have said, at the normal line extends about 2½ to 3 feet above still water, and when the ship is deep laden 1 to 1½ feet under water. That is to say, they go back to the arrangement which was abandoned fifteen years ago.

This argument about the water-line belt being the life of the ship is all humbug, because you don't know where the water line is. Directly she burns out coal, or uses up stores, or does anything to diminish her draft, that water line changes. And directly you put in water, or the ship heels over, or moves through the water, it changes.

When you go to sea, you may have the ship rolling so that her armor comes wholly out of water. You never go to sea with the fleet without seeing large portions of the unarmored bottoms of the ships.

The fundamental error is in making such a fetich of the water-line belt. What you want to do is to get all the vertical height of armor you can on the side above the belt, or water line. And then when you have fixed on your limit of weight this must also be considered. All experience proves that the chance of damage to the hull of the ship increases with its height above water.

In the battle of Tsushimi it was not the armored sides of the Russian ships that suffered, but their superstructures. The ships were not sunk by perforation of their armor, but by the perforation of their thin sides above the armor and the entrance of water into the upper parts of the ships.

If the armor of the Russian ships had been the same as the armor of the *Connecticut*, what would have been the result?

It would have been vastly better for the ships. This is the point. The Russian ships had a smaller armored area above the water than the *Connecticut*. Therefore they could stand battering less. And the *Dreadnought* has less armored area above the water than the *Connecticut*, taking both ships at deep draft.

When people talk, as Reuterdahl does, about the *Dreadnought* being such a superior vessel to the *Connecticut* in the defense, they ignore the small vertical height of armor when the ships are at deep draft.

Does not the *Connecticut* answer all Reuterdahl's requirements as expressed in his criticisms?

No. What he says is that the life of the ship depends upon the water-line belt. If you admit that premise, then his argument is all right. He says a 6-inch armor above the water-line belt might be of some value, but would be quite secondary. I say that all experience proves that the increase in the vertical expansion above water of the side armor is of fundamental importance in enabling the ship to stand battering.

There are plenty of instances in the case of the Russian ships in the war with Japan where the armor, according to all formulæ, should have been penetrated and was not penetrated. And the Russians, who may be supposed to know what happened, have in their later designs extended the area of the armor enormously and reduced the thickness. That has been their answer to it.

What reasons were given by the British Admiralty for reverting to an abandoned type of armor in the case of the *Dreadnought*?

They decided to have an armament of ten 12-inch guns. They had therefore to provide a great weight of armor for the redoubts in which these great guns and their turntables are placed. That was a necessity, you see, to protect the armament. Then they found that, with a given size of ship, with a given total weight of armor available, they could not continue to protect so large an area on the side.

With the *Connecticut* or the *King Edward* arrangement, your armor serves two purposes—it protects the battery in which you place your smaller guns, and also serves to maintain buoyancy and stability by being on the side of the ship.

If you have to put in 12-inch guns, you must protect with armor the towers in which they are placed. In the *Connecticut* or *King Edward* there are four

12-inch guns; therefore you have two towers. But when you get ten 12-inch guns, as in the *Dreadnought* or the *North Dakota*, you are obliged to take armor from the sides and put it on the towers.

The total depth of armor on the *Dreadnought* along the side is about 13½ to 14 feet, a little less than before. And, again, the reversion to the thicker water-line belt means you have to concentrate weight there—a thing to which I have always taken exception. I think that is going back to a fallacy; it is a mistake. And you know they have not continued to use the same thickness of belt line in the later ships of the *Dreadnought* class. They have kept the 8 inches above, but have less than 11 inches below. In other words, the difference between the upper and belt armor is less in the later ships.

There is another thing which Mr. Reuterdahl criticised, and that is the direct hoists from the magazines to the rear of the guns. Taking it as a matter of fact again, if you were to take all the armored ships of the world at the present time on the effective lists you would find the very great majority of them with nothing but direct hoists. It is not peculiar to American ships at all.

Now, I have been reading the testimony given at that investigation in Washington, and from that it appears perfectly clear that the accidents that have happened are only indirectly associated with the direct hoist. The primary cause of accident has nothing to do with the hoist.

Having said that, I ought to say that I am the man who brought out the broken hoist—that is, lifting the ammunition up a certain height from the magazines into an ammunition room and there transferring it to another hoist not in a direct line. I did that nearly twenty years ago, but I did not do it because of the danger of the direct hoist. When you have a direct hoist from the magazine up to the rear of the guns, which may be 50 feet if the gun is placed high, it takes an appreciable amount of time to lift the charge from the magazine to the gun before you can load. Now, I said if I could put in two stages, one that would bring the ammunition to within 6 or 7 feet of the gun, and then a second set of men, who had nothing to do with the first operation, to lift it the remaining distance to the gun, I could save considerable time. That is the reason I did that, and not because of any danger.

The inexperience of the men and the conditions of target practice are to blame. As long as you give the prize to the men who fire the most ammunition in a given time, or hit the target most frequently in a given time, they will play that game. But you will remember that the Japanese admirals, Fushimi and Togo, gave orders that that practice was not to be followed.

In the battle of the 10th of August outside Port Arthur the Japanese fired away nearly all their ammunition, and were only saved by the merest good fortune. And they were not able to follow up the Russians because they did not have reserve ammunition.

Now, as to the freeboard and height of guns above water, all I need say about that is that the facts are again not in Mr. Reuterdahl's favor.

It is quite true that in the swifter cruisers of the British navy I introduced a high forecastle, because they were going to drive hard and fast against the sea. But in the battle ships I kept along at a steady height of freeboard and of guns above water, and that was practically maintained all the time I was there, because it was proved to be enough by experience at sea.

There are two requirements. There is the maintenance of speed. That demands a high bow, whether it is an Atlantic liner or a battle ship. Then there is the fighting power in a seaway. And of course there you never want to place your guns higher than you are obliged to, because by raising them you raise your center of gravity and reduce your stability accordingly.

Reuterdahl's contention is that the existing American ships are disadvantageously situated as compared with European vessels. I say that is not so. The cruisers in your Navy have not such great height of freeboard forward as I have given to our cruisers, but in that respect it is not a question of power, but simply a question of the maintenance of speed at sea.

There is one thing more that I should like to say, and I think it is vital. I have known the American Navy from the start. It is not generally known that the modern American Navy started with the purchase of two of my designs from Armstrong's. That was in 1885. From those designs the *Charleston* and the *Baltimore* were built.

The first thing I want to say in this connection is that you have in those men naval architects as capable as any, in my judgment, in the world, because they have been properly trained, and besides they are picked men.

The second thing I want to say is that your shipbuilding yards are quite equal to any we have in their equipment and management and all that. They

have come later and they have the advantage of all the accumulated experience we have had to go upon. And there is American ingenuity at the back of all that on the mechanical side.

And the result is that, in my opinion, you have a fleet that, ship for ship, comparing the ships designed at a given date—and that is the only fair comparison—is equal to anything the world contains. And next to the British navy I think your Navy is the best in the world.

These wholesale criticisms and severe condemnation are not justified. There is no ship that you can not criticise, but criticism to be of value must be the result of experience. No one would want to avoid that kind of criticism. But what I do say is that these are not subjects that can be properly discussed in the public press or in magazine articles. They must be dealt with dispassionately and quietly.

10.

[Scientific American, New York, Saturday, May 2, 1908.]

SIR WILLIAM WHITE ON THE AMERICAN NAVY.

In the course of a recent converastion with Sir William White the editor of the Scientific American asked the distinguished naval architect for his estimate of the relative value of the ships of the United States Navy compared with those of the leading navies of the world. He replied that if a comparison were made of ships of the same date and the same type, he considered that the United States vessels were the equals of any war ships afloat.

Now, the value of this approval lies in the fact that Sir William has had a more intimate and extended experience in the design of modern war ships than any living naval architect. For a period of about twenty years he was the chief constructor of the British navy. What Ericsson was to the low-freeboard, coast-defense monitor White is to the modern, high-freeboard seagoing battle ship; and in the *Royal Sovereign* he introduced a type which, for two decades, has formed, in most of its essential features, the standard battle ship for the leading navies of the world. In his active career he has designed a greater number of battle ships and cruisers probably than any three naval architects combined.

Sir William informed us that he had followed the Senate investigation of the supposed defects in our ships with much interest and that he disagreed with the charges as originally stated in the Reuterdahl article. Taking the case of the *Dreadnought*, which was cited as an instance of how our own ships should have been armored, but were not, he made the startling statement that whereas, at full load, the American ships are depressed on an average 27 inches below the nominal flotation line, the *Dreadnought*, when so loaded, was depressed from 4 to 4½ feet; and that whereas at full load the American ships show from 6 to 9 inches of the thick belt above the water, the English ship has the corresponding belt from a foot to a foot and a half below water. He further stated that whereas in the fully loaded condition the *Dreadnought* shows only 4 to 4½ feet of 8-inch side armor, the *Connecticut* and class show from 15 to 16 feet of 7-inch side armor above the water. Therefore, he considered, as well he may, that the *Connecticut* is better protected than the *Dreadnought*.

Even more disastrous to the critics of our Navy were the comments of Sir William on the question of the direct versus the interrupted

hoist. Mr. Reuterdahl and others have stated time and again that the direct hoist, giving direct communication from the handling-room floor to the breech of the gun, is a type of construction peculiar to our own Navy, which is full of danger; and they have urged that it should have been abandoned long ago in favor of the interrupted hoist, which, according to them, was introduced in foreign navies to avoid the dangers inherent in the direct hoist. Thus, Mr. Reuterdahl in his recent letter to the New York Sun, referred to in another column, states that there is not in any foreign turret a hoist of the type we use. Now, upon this point no one is so qualified to speak as Sir William, for he informs us that it was he himself who designed the interrupted hoist nearly twenty years ago—the critics have told us that this was a comparatively modern improvement, which our slow-moving Department has refused to adopt—and that he did not design it because the interrupted hoist was less dangerous, but because he believed it would secure a faster service of ammunition to the guns. He stated furthermore that the majority of the armored ships of the world make use of the direct hoist, and that it is in no sense peculiar to the United States Navy.

And thus once more are the fallacies and the absurd exaggerations of this ill-advised onslaught upon our Navy shown to be not only baseless, but positively absurd—this time by one who is at once the foremost naval architect of the day and an outside critic of unquestioned impartiality. Let us hope that with this final and truly comic pricking of the "open hoist" turret bubble, the American public will be granted a well-earned repose.

11.

[Engineering News, April 16, 1908—A journal of civil, mechanical, mining, and electrical engineering, published every Thursday by The Engineering News Publishing Company, 220 Broadway, New York.]

For three months past, following the publication of a sensational magazine article, the press has been filled with criticisms of the United States Navy. We have not thought it worth while to give space to any of the voluminous discussion. To those who could see beneath the surface it has been evident that these criticisms of the Navy and of our naval vessels originated partly from a desire to make political capital, partly from the desire to make money by exploiting sensational articles in the press, and partly from some jealousy and prejudice inside the Navy Department. Eliminate all these, and there still remains doubtless some fair and reasonable criticism in all that has been uttered, but it has been so buried out of sight in the torrent of destructive slander and vituperation that it might better have been postponed to a more suitable season.

No one supposes that the Navy organization is perfect. Doubtless it is true that the different bureaus do work more or less at cross-purposes, but we hear exactly the same complaint of lack of departmental cooperation from inside prominent railway and industrial corporations. Human nature is not materially different in the Navy *and out* of the Navy.

No one supposes, either, that any battle ship or other naval vessel *is perfect*. Far from it. The modern naval vessel is in its design

a compromise and must be, absolutely, from the necessities of the case. Of course, the line officer wants his vessel to have more and bigger guns, thicker and wider and longer armor belt, higher speed, greater coal capacity, more roomy quarters for its crew. The naval designer has to take a certain limited number of tons displacement and provide as much speed and armor and offensive power and all the rest as the conditions permit.

A large part of the criticisms which have been aimed at our battle ships and their designers during the past few months have referred to the location of the armor belts. It has been repeated over and over again that the armor belts were too low, that the tops of the belts were under water when the ships were ready for sea with all coal and stores on board; and the naval designers have been called impracticable theorists, ignoramuses, bureaucrats, and various other uncomplimentary names.

This sort of criticism reads well in the pages of a popular magazine, and perhaps it will make good political campaign documents, but when it is examined with a little practical knowledge, how puerile it appears.

A ship may have to fight a battle when its coal and stores are nearly exhausted and it stands high out of the water in consequence. The battle of Santiago was fought under exactly those conditions. Again, there can be no certainty that battles will be fought in smooth water, and in a seaway all ships roll more or less. The critics who have been barking themselves hoarse against our naval vessels have been vociferous in their assertions that Admiral Evans himself "had it in" for the designers who had placed the armor belts so low. It was freely asserted that when he arrived, after completing the cruise around the South American continent, he would add the weight of his authority on the side of the critics. But when he at last arrived and the impatient reporters sought to draw him out on the armor-belt question, "Fighting Bob" assured them that while he would be glad to have the top of the armor belt raised so as to give more protection, on the other hand the vessels of his fleet often rolled until the bottom of the armor belt was raised above the water line.

And so, as Mr. Dooley says, there you are! There is absolutely not a shred of evidence in all that has been published, so far as we have seen, to show that our naval designers have not done the best possible within the necessary limitations. They appreciate, what the general public and possibly the naval critics do not, that every inch the armor belt is raised materially affects the stability of the vessel. They appreciate, what the critics of the Navy apparently do not, that while higher armor belts, higher freeboard, and higher batteries might have possible advantages, the first duty of a designer is to guard the stability of his vessel. A battle ship must be safe against capsizing in any ocean storm. Besides this, if a higher armor belt so decreased stability as to cause greater rolling, the vessel might expose still more of her bottom below the armor to the enemy's guns when fighting in a seaway.

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60TH CONGRESS, 1st Session } SENATE { DOCUMENT No. 512

PAPERS RELATING TO THE ELECTION OF SENATORS BY DIRECT VOTE OF THE PEOPLE

INCLUDING

A SPEECH BY HON. GEORGE F. HOAR, OF MASSACHUSETTS, DELIVERED IN THE SENATE OF THE UNITED STATES APRIL 6 AND 7, 1893 : : : : : : : : : : : : : : : : : : :
A LIST OF PRINCIPAL SPEECHES AND REPORTS MADE IN CONGRESS IN RECENT YEARS UPON THE PROPOSED CHANGE, CORRECTED AND EXTENDED TO JUNE 12, 1902; ALSO A REPRINT OF THE PRINCIPAL DOCUMENTS RELATING TO THE SUBJECT OF THE ELECTION OF UNITED STATES SENATORS INTRODUCED IN CONGRESS DURING THE SAME PERIOD OF TIME.—Introduced by Mr. GALLINGER in the Senate June 13, 1902 : : : : : : : : : : : : : : : : :
ABSTRACT OF LAWS RELATING TO THE ELECTION OF UNITED STATES SENATORS.—Presented by Mr. CLAPP in the Senate March 2, 1907 : : : : : : : : : : : : : : : : : : :

MAY 23, 1908

Presented by Mr. FORAKER and ordered to be printed

WASHINGTON -:- GOVERNMENT PRINTING OFFICE
1908

Senate Document No. 232, Fifty-ninth Congress, first session.

SPEECH

OF

HON. GEORGE F. HOAR.

The Senate having under consideration the resolution submitted by Mr. HOAR relative to the election of United States Senators by the people, and against House joint resolution of the Fifty-second Congress providing for the same—

Mr. HOAR said:

Mr. PRESIDENT: I ask that the pending resolution be read.

The resolution, submitted by Mr. HOAR on the 3d instant, was read, as follows:

Resolved, That it is inexpedient that the resolution sent to the Senate by the House of Representatives during the last Congress, providing for an amendment of the Constitution securing the election of Senators by the people of the several States, be adopted.

Such a method of election would essentially change the character of the Senate as conceived by the Convention that framed the Constitution and the people who adopted it.

It would transfer practically the selection of the members of this body from the legislatures, who are intrusted with all legislative powers of the States, to bodies having no other responsibilities, whose election can not be regulated by law, whose members act by proxy, whose tenure of office is for a single day, whose votes and proceedings are not recorded, who act under no personal responsibility, whose mistakes, ordinarily, can only be corrected by the choice of Senators who do not represent the opinions concerning public measures and policies of the people who choose them.

It requires the substitution of pluralities for majorities in the election.

It will transfer the seat of political power in great States, now distributed evenly over their territory, to the great cities and masses of population.

It will create new temptations to fraud, corruption, and other illegal practices, and in close cases will give rise to numerous election contests, which must tend seriously to weaken the confidence of the people in the Senate.

It will absolve the larger States from the constitutional obligation which secures the equal representation of all the States in the Senate by providing that no State shall be deprived of that equality without its consent.

It implies what the whole current of our history shows to be untrue, that the Senate has during the past century failed to meet the just expectations of the people, and that the State legislatures have proved themselves unfit to be the depositaries of the power of electing Senators.

The reasons which requires this change, if acted upon and carried to their logical result, will lead to the election by the direct popular vote, and by popular majorities, of the President and of the judiciary, and will compel the placing of these elections under complete national control.

It will result in the overthrow of the whole scheme of the Senate and, in the end, of the whole scheme of the National Constitution as designed and established by the framers of the Constitution and the people who adopted it.

Mr. HOAR. Mr. President, I suppose that no thoughtful person will deem a discussion of this topic out of time or premature. Four important States have sent to us resolutions of their legislatures favoring such a change in the Constitution. Three Senators have advocated it in elaborate speeches. The House of Representatives, without a debate, has passed resolutions for submitting the change to the States. The careless and thoughtless dealing with this subject is shown by the proposal to take from Congress all power over the manner of electing Senators—a step which would go far, in my judgment, to change this country from a nation into a league or confederacy.

I am not sure whether it is the good fortune or the ill fortune of our American political system that our controversies so often relate to matters which are vital, not only to the well-being, but to the very existence of the Republic. The English take their constitution for granted. They can change anything in their state by a simple act of legislation. But it has been very rarely in their history that great constitutional changes have been brought about by the action of legislative bodies. They have never been brought about by the direct action of the people.

The abandonment of the influence of the sovereign in legislation, the abandonment of the veto power, the diminished authority of the House of Lords, the transfer of executive power from the immediate servants of the Crown to the ministers, who depend for their official existence upon the majority of the House of Commons—all these things have come to pass so silently that it is difficult to discover when any of them took place. Although our constitutions, State and national, are all in writing, there are constant attempts to make changes of the most radical and vital character, and to bring them about suddenly and without deliberation or discussion by popular action.

If the Senate as at present constituted is to be defended, it is to be defended here. If the great reasons which moved our fathers to establish this Chamber, which they hoped would last in unbroken succession until time shall be no more, to give its members a tenure of office more enduring than that of any other department of the Government save the judiciary alone, to remove it from the operation of the fleeting passions of the hour, to lay its foundation below the frost, and to remove the appointment of the men who are to compose it, as far as may be, from the temporary excitements which so often move the people to their own harm, are understood anywhere, those reasons must be understood by the men who fill these seats. If this great part of the structure of our body politic is to be maintained,

it must be maintained by the confidence of the American people in the character of their Senators and by the strength of argument which those Senators must themselves at least help to furnish.

This is clearly, Mr. President, a question of centuries, and not of years. In determining it we must appeal to our experience of a hundred years, and not merely to that of yesterday or the day before. A present impatience is not only no good reason for making a change, but its existence seems to me an especial reason for postponing it. If we listen only to present complaints, we must make radical changes also in the manner of electing the President, in the constitution of the State legislatures, in our judiciary, in the House of Representatives, in the management of our great corporations, of our railroads, our schools, our universities, the church, the law, and the private habits of the people. Complaint, impatience, uneasiness attend upon everything which depends upon human instrumentality for its administration. They are the sign of vigorous health, and if soberly and thoughtfully dealt with are the conditions of all life and growth.

We must judge the Senate, as I have said, by the experience of a century, and not by a few recent failures. Whatever there may be of existing evil may be corrected by the intelligence and good sense of the people, as other evils quite as great have been corrected in the past.

When I came into the national service in 1869, all avenues to this and the other Chamber and to every Executive Department were swarming with a powerful and corrupt lobby. That lobby has disappeared before an aroused and vigorous public sentiment. Who hears now of great measures of legislation promoted or affected in Congress by corrupt instrumentalities?

When I came into public life in 1869, the Senate claimed almost entire control of the Executive function of appointment to office. Every Senator, with hardly an exception, seemed to fancy that the national officers in his State were to be a band of political henchmen devoted to his personal fortunes. What was called "the courtesy of the Senate" was depended upon to enable a Senator to dictate to the Executive all appointments and removals in his territory. That doctrine has disappeared as completely as the locusts that infested Egypt in the time of the Pharaohs.

When I entered public life in 1869, Tweed was the dominant power in New York City. He dictated alike all civic expenditures and the appointment and the judgment of the courts of the city. It became my duty, in representing the House of Representatives on the impeachment of a public officer before the Senate, to utter the following language of warning, the timeliness and necessity of which I think few men will now question:

My own public life has been a very brief and insignificant one, extending little beyond the duration of a single term of Senatorial office. But in that

brief period I have seen five judges of a high court of the United States driven from office by threats of impeachment for corruption or maladministration. I have heard the taunt, from friendliest lips, that when the United States presented herself in the East to take part with the civilized world in generous competition in the arts of life, the only product in her institutions in which she surpassed all others beyond question was her corruption.

I have seen in the State in the Union foremost in power and wealth four judges of her courts impeached for corruption, and the political administration of her chief city become a disgrace and a byword throughout the world. I have seen the chairman of the Committee on Military Affairs in the House, now a distinguished member of this court, rise in his place and demand the expulsion of four of his associates for making sale of their official privilege of selecting the youths to be educated at our great military school. When the greatest railroad in the world, binding together the continent and uniting the two seas which wash our shores, was finished, I have seen our national triumph and exultation turned to bitterness and shame by the unanimous reports of three committees of Congress—two of the House and one here—that every step of that mighty enterprise had been taken in fraud.

I have heard in highest places the shameless doctrine avowed by men grown old in public office that the true way by which power should be gained in the Republic is to bribe the people with the offices created for their service, and the true end for which it should be used when gained is the promotion of selfish ambition and the gratification of personal revenge. I have heard that suspicion haunts the footsteps of the trusted companions of the President.

These things have passed into history. The Hallam or the Tacitus or the Sismondi or the Macaulay who writes the annals of our time will record them with his inexorable pen.

Will any man deny the truth of any of these charges? Will any man find occasion to repeat them to-day? These great evils, one and all, have been corrected by the American people with the abundant resources which, under their existing constitutions, were at their command. Other evils, as grave, but not graver, demand our attention to-day. These evils will in their turn disappear when brought into the daylight before the intelligence and the justice of the American people.

The sufferings of the people have been mostly from their apprehensions, never from any actual misgovernment. Even our civil war itself came through the apprehension of the people of one section of the country of which those who waged it against the Government now think it was an unmixed good. Our political history seems to be almost made up of popular movements which are the result of the fears of the people—of evils apprehended from legislation which, in fact, are never experienced.

The history of the United States for a hundred years has been the history of marvelous prosperity and growth, which reads, even in the pages of soberest historians, like an oriental tale. Yet our political journals have been constantly filled with prediction of disaster and ruin. If anybody needs confirmation of this statement, let him read the political platforms of the party conventions of the minority. It

is marvelous to see how safe, conservative, and beneficent has been our national legislation in spite of all the violence and all the extreme utterances of the journals and the platforms. This quality in our legislation is derived largely, though not wholly, from the character of the Senate under the existing method of choosing its members.

The dangers of the country are the dangers to the elective franchise—violence, fraudulent voting, fraudulent counting, intimidation, corruption, gerrymandering, the unseating of legislators with unquestioned title to their seats for the accomplishment of political objects by unscrupulous men, the use of weapons intended to protect our institutions, to subvert them. These things—not mistakes in finance, or an erroneous fiscal policy, or unwise laws of succession, or even rash and violent projects of social extremists—are the things that menace the permanence of our institutions to-day.

Every generation since the dawning of civilization seems to have been gifted with its own peculiar capacity. The generation of Homer has left nothing behind but a great epic poem, which for thirty centuries remains without a rival. Italian art had its brief and brilliant day of glory which departed and never has returned. The time of Elizabeth was the time of dramatic poetry which has been alike the wonder and the despair of all succeeding ages. The generation which accomplished the American Revolution had a genius for framing constitutions which no generation before or since has been able to equal or to approach. The features of the State constitutions framed in that day have been retained with little changes in substance, and have been copied since by every new State.

The men of that day had many great advantages for this work. They had conducted a great revolution. To prepare for it, they had been engaged for a century in discussing the principles on which self-government is founded and by which constitutional liberty is secured. They were men of English stock, trained in the principles of English liberty. There was no admixture in their body politic of men who had been born under despotic governments, and who associated the idea of government inseparably with the idea of tyranny. At their fathers' fireside the great debate of constitutional liberty had been conducted from the earliest recollection of the oldest men then living. They had the other advantage, that in framing their constitutions they were free from all party bias and from the temptation to consult party advantage, or appeal to the party prejudices of the people.

I do not, of course, claim that the people can not now amend, or that they can not now improve, our Constitution. That Constitution itself would be a failure if the experience of a hundred years under its operation found the people unfitted to improve it. The lives of our fathers would have been of little worth if, under the Constitution they framed, there had not grown up and flourished a people

who were also fit to deal with the great and fundamental constitutional principles of the state. The men who entered upon the untried field of providing by written enactment what were the boundaries and limits of constitutional power and constitutional authority in the state have left children who, after a hundred years of trial, need not fear to approach and to deal with the same great problems. But they must bring to them the same wisdom and courage and virtue. They must dare to tell the people plain truths. They must possess the wisdom of deliberate action, and rise to the austere virtue of self-restraint.

Mr. President, wherever there can be found an expression of admiration for the American Constitution in the works of any great writer or thinker at home or abroad it will be found that the admiration is based upon that part of its mechanism which secures the deliberate and indirect action of the popular will instead of its immediate, rapid, inconsiderate, and direct action. The parts of it which are everywhere the most praised and by which its framers sought especially to commend it to the confidence of the people were the constitution of the Senate and the constitution of the Supreme Court.

The great function of the Supreme Court is not merely or chiefly to afford a learned, able, and impartial tribunal for the determination of controversies between private parties upon the principles of ordinary municipal law; but it is the function of keeping the national and State legislatures alike within the appointed limits of their authority. In other words, it is a restraint upon the people's will when expressed in the form of legislation by the people's representatives, whether that will undertake an encroachment upon the individual and natural rights of the citizens or upon the domain of other appointed constitutional authorities. "It is, indeed," said Daniel Webster, "a great achievement; it is the master work of the world, to establish governments entirely popular on lasting foundations."

I do not propose to take any time in commending the excellencies of the Constitution of the United States. I do not think it worth while to cite to ears to which they are familiar the praise of foreign statesmen or philosophers, of Gladstone, or of De Tocqueville, or of Bryce. These compliments are trifling and insignificant in comparison with the great fact that the American people are satisfied with it, and that they would reject with swift and unanimous indignation any proposition which they thought would change it in its essence.

I think it can be established to their satisfaction that the proposed change in the method of electing Senators is in itself a change in principle and essence of the most vital character, and that its logic will lead to other changes equally vital and essential. And for that

reason I have no apprehension of the success of this scheme when deliberately considered and discussed.

I am not afraid to say to the American people that it is dangerous to trust any great power of government to their direct or inconsiderate control. I am not afraid to tell them not only that their sober second thought is better than their hasty action, but that a government which is exposed to the hasty action of a people is the worst and not the best government on earth. No matter how excellent may be the individual, the direct, immediate, hasty action of any mass of individuals on earth is the pathway to ruin and not to safety. It is as true to-day as it was when James Madison, the great advocate of the rights of the people in his time, one of the foremost among the framers of our Consitution, first said it, "That, although every Athenian citizen might be a Socrates, every Athenian assembly would still be a mob."

Our fathers were profound students of history. The found that no republic, although there had been many examples of other republics, ever lasted long without a senate. The term senate implied to their minds, as to ours, a body of men of mature age and of a tenure of office which was removed from all temptation of being affected by temporary currents of public sentiment. The word senate is a misnomer when applied to any legislative body of whom these things are not true.

My friend from Oregon said the other day that the framers of the Constitution distrusted the people. He said that one of them who declared in the convention that legislation ought to be removed as far as possible from the immediate action of the people would be remanded to private life nowadays with a promptness that would be almost grotesque. Why, Mr. President, that Senator represents a State—one of the new States of the Union—that has incorporated the doctrine of that utterance into every department and arrangement of her constitution more completely, I think, than any other State in the American Union. The Senator overlooks what the author of the utterance with which he finds fault had so profoundly studied—the difference between the immediate action of the people upon legislation and administration and the expression of the sober and deliberate will of the people through instrumentalities whose own sobriety and deliberation are thoroughly secured.

Does my friend really think that the authors of the opening sentences in the Declaration of Independence, who rested their cause on those sublime and eternal truths in their great controversy with the mother country, who placed those truths at the very foundation of their new Government, who pledged their lives and fortunes and sacred honor to maintain them, distrusted the people? They trusted

the people when they made those great declarations of natural right. They trusted the people when they declared the equal right of every human being without exception of race or color or nationality or rank or fortune. But they trusted them also with as profound and implicit a trust when they submitted to them constitutions, both State and national, filled with restraints which alike secure minorities and individuals against injustice and oppression from majorities, and secure the whole people against their own hasty and inconsiderate action.

No, Mr. President, it is not because the framers of our Constitution distrusted the people; it is because they trusted the people that they confidently asked their adoption of a Constitution which compelled them to deliberation, to sober thought, to delegated power, to action through selected agencies and instrumentalities, to thinking twice before acting once. It was not Madison or Hamilton, it was the people of the United States who ordained and established the Constitution.

I have no respect for the notion that the people of the United States need to be flattered or cajoled, or that they are impatient of the necessary restraints of constitutional liberty. Truth, frankness, and courage are the avenues to their confidence. There is but one way to discover what will be popular in this country, and that is to discover what is right. There is but one road to the enjoyment of the confidence of the people, and that is to counsel them to wise, honest, and safe policies. The public man who appeals to temporary opinion or who flatters temporary passion will find his hold upon power as temporary and shortlived as are the instrumentalities by which he seeks to obtain it.

It has been said in this discussion that the Constitution needed amendment at once. This is true; but all amendments were in the direction of placing checks on the power of the people and declaring that there were certain things the people should not be permitted to do. The great statesmen who framed the Constitution placed in it certain checks and safeguards against the popular will. The greater people to whom they submitted it perfected it by inserting other safeguards still.

I stated just now that the term "senate" implied to the apprehension of every studious man certain essential conditions; but the Senate of the United States, as established by our Constitution, implied something more than this.

First, our fathers wished to secure a dual legislative assembly. With the exception of Doctor Franklin and his associates in the Pennsylvania delegation, who are understood to have cast a formal vote out of deference to him, it was thought best to provide a dual representative assembly. Every act of the legislature was to be twice

considered and have the approbation of two different, separate houses.

Second, these two houses were to have a different constituency. So every proposed law must run the gantlet of two diverse interests and be judged from at least two points of view. Every State in the construction of its legislature has maintained these two principles. The American people, I suppose, are now agreed upon them with substantial unanimity.

Third, the Senate is expected to represent the equality of the States. This is the one principle which would never have been yielded by a majority of the States when the Constitution was made, and which has been made eternal as far as possible by the provision that it shall not be changed without the consent of every State.

Fourth, the Senate was to represent deliberation in the expression of the popular will by the length of the term of office of Senators and by its removal from the direct popular vote in the method of choice. It is this point at which the Senate is now attacked.

The constitution of the Senate secures the applications of all these principles in the four great constitutional functions of the National Government—in legislation, in the making of treaties, in the appointment of the great executive officers, and in impeachment. The last of these powers has happily not often been resorted to in our history, but was regarded by the framers of the Constitution as essential for the security of the whole. As James Monroe well said:

> The right of impeachment and of trial by the Legislature is the mainspring of the great machine of government. It is the pivot on which it turns. If preserved in full vigor and exercised with perfect integrity, every branch will perform its duty.

Each of these the Senate shares with other departments of the Government, and to each of them it contributes the great and conservative principle which our fathers thought essential to secure to all generations and amid all popular temptations and excitements the Government they framed against the evils by which all former republics had perished.

The Constitution also carefully provides in the case of the Senate, as in the case of the House, that the manner of the election shall be prescribed by the authority of the nation for whom the persons selected are to legislate.

It will be seen, I think, very clearly that the change proposed destroys the essential character of the Senate in each of these particulars.

It substitutes a direct election by the people for an election by the legislature.

For a selection by public officers to whom the great public duty of State legislation is intrusted there is to be a selection and nomination by conventions composed of persons without other responsibility.

This, in most cases, will be the mode in which the majority, practically, will make its choice.

For a selection by men who are themselves selected under strict legal provisions there is to be, therefore, practically a selection by men who are not chosen in pursuance of any law.

Instead of selection by men under oath of office there must be a choice by men upon whom no oath is imposed.

For a selection by men of whose action there is a record the choice is practically to be made by men of whom no record exists.

For a choice by men acting under personal responsibility the selection will be made by men who may act by proxy.

For a choice by a permanent body there must be a choice by a body lasting but a day.

For a choice in a manner prescribed by national authority, there must be a choice in a manner prescribed in no authority whatever.

For a choice by a body acting by majorities, there must be substituted, in the end, a choice by a plurality.

For a choice by a body representing all localities in a State where different local interests are fairly represented, there must be a choice by sheer force of numbers, where the popular masses in great cities will have an undue and disproportionate weight.

Instead of representing different constituencies to secure the different interests in legislation, the Senate and the House are to represent constituencies of the same kind, differing only in size.

From the change in the manner of election will surely and inevitably, in my judgment, follow the destruction of the equality of the States in the Senate. It is true the Constitution now provides that no State shall be deprived of its equal vote in the Senate without its consent. But this provision relates to a Senate to be constitutional and selected in the old constitutional manner, and will never be long tolerated, in my judgment, by the large States under the proposed arrangement.

The State legislatures are the depositories of the sovereignty of the States. They are, in theory, and I believe in general in fact, composed of the picked and chosen men of the communities from which they come. The men who make up the State legislatures are chosen by their neighbors. They are chosen by men who know them or can know them. There have been exceptions, but in general they have been honest, wise, faithful, and just. The pages of the statute books of the forty-four Commonwealths are in general without a stain. They can be read by the patriot without a blush. I am not afraid to compare them with the two hundred and fifty Parliaments through which, for eight hundred years, the freedom of England—

> Has broadened slowly down,
> From precedent to precedent.

There have been many things we might well wish were otherwise. In the chambers where all men are equally represented, what is worst as well as what is best of humanity will sometimes find its representative. The ambition, the love of power, the party spirit, the private greed, the popular passion, injustice, and tyranny will occasionally appear there as elsewhere. In what spot in human history are they not found? But I am willing to take the legislation of any American State which is a quarter of a century old and compare it with the legislation of any government possessing a legislature in any period of its history. Why, in the British House of Commons Disraeli said that long after the close of the American war, and within the memory of men who heard him, a member of the Government stood below the gangway at the final adjournment of the Parliament and gave a £500 note to every member who had supported the administration.

You and I can well remember when bribery was a common and necessary method of getting a seat in the English House of Commons. But English constitutional liberty and English constitutional government have not proved a failure.

Do you propose to strip the State legislatures of any other function of their sovereignty? Can you not trust the men who make all the laws upon which the safety of property, the marriage relation, the security of the home, the administration of the schools, taxation, freedom of religion, the punishment of crime, and everything else which enters into the comfort and honor of private life are depending with the choice of Senators because my honorable friend from Illinois thinks that, in the experience of the people of that excellent State, the selection of Senators under existing conditions has been unsatisfactory?

What is the alternative, and what must be the alternative? What is the alternative proposed? What must be the necessary and only alternative that can be proposed for the exercise of this great function of local sovereignty? The State legislature is a failure, we are told, and is not fit to be trusted any longer. Who are to nominate our Senators? To whom is the practical selection to be intrusted? Whatever may be the theory, the voting population of the State of New York, or of the 10,000,000 who within the lifetime of some of us will dwell within the borders of that imperial Commonwealth, are not expected to gather together and put in nomination a Senator by direct action. No one hall will quite hold them, even were it as flexible and expansive as the court room when naturalization is going on.

The practical choice of the Senator must be made by nominating conventions. Are not these bodies quite as likely to be susceptible to mistakes or to corrupt manipulation as a State legislature? They gather together at midday, chosen by no constituency whose action,

or even the freedom or purity of whose choice, can be regulated by law. The men who gather are to perform but a single function, to which there is attached ordinarily little responsibility. They can not be instructed by their constituents. Their functions may be exercised by proxy. They are not amenable in their individual action to a sound public opinion.

There is no record of the individual vote, or any means of correcting a mistake or fraud. They gather in the morning, and disperse when the mists of evening rise. And it is to these bodies that the choice of the men who are to compose what we are fond of calling the most august body on earth is practically and in the ordinary course of things to be committed. It is these bodies who are fitter to be trusted than the legislatures to whom all the dearest interests of the people of the States are committed.

Cicero, in his oration for Lucius Flaccus, attributes the decay of Roman and the destruction of the Grecian liberty to the substitution of the turbulent popular assembly for the deliberative chamber in wielding the political power of the state. He has left his terrible picture of the popular assemblies of his time as a pregnant lesson for all mankind.

It may be said that governors and State officers and Representatives in Congress are selected in this way now. That is true. But have all nominations of governors and Representatives in Congress been on the whole more satisfactory to the people than the selection of Senators for one hundred years? I think that when any one of us wishes to arouse the State pride of the people he represents by enumerating the great men who have adorned their history we find that the names of the men who have sat in these seats arise to our lips quite as naturally as the names of the governors or the Representatives in Congress, however illustrious.

When my colleague here or my colleagues in the other House wish to stir the hearts of a Massachusetts audience they are quite as likely to speak of Webster, and of John Quincy Adams, of Charles Sumner, of Rufus Choate, or George Cabot, and of Edward Everett and John Davis as of anyone in our list of governors, excellent as that list has been. Is there any other State of which the same is not true? And nearly every one of the great men who have been elected to the House by the choice of the people has also sat in the Senate. The people who by any constitutional method of choice will in any generation send to this Chamber an ignoble or unworthy Senator will, I will venture to say, be found to have at the same time no better timber in their executive chair or in the House of Representatives.

It is a little difficult for a Member of this body, without some violation of good taste or self-assertion, to state what we all think of the *character* which the Senate has maintained from the beginning of the

Government and of its title to the confidence of the people. But I am not afraid or ashamed to invite a comparison of the men who have sat in these seats and represented my own Commonwealth, down to the date when the present Senators took their places, with any line of dukes, barons, or princes, or emperors, or popes who have successively filled the seats of any legislature or the executive chair of any commonwealth, whether these persons held their titles by virtue of noble descent or royal favor or of the favor of the people themselves.

I do not believe the people of Massachusetts—and the same challenge may be given with confidence in behalf of any other American State that has a history—will accept this invitation to change the method of choosing the Senators, which depends, as I have said, not only upon the claim that the legislatures are unfit to be trusted with this duty, which is one among the chiefest functions of sovereignty, but that the Senate of the United States has, upon the whole, been a failure.

I do not believe the people of Massachusetts are quite ready to discredit their own general court with its two hundred and sixty years of legislative history, and give their confidence instead to a political convention which gathers in the morning and disperses when the mists of evening arise, whose members are without an oath of office, without a record, without legal restraint upon their election, who have no accountability to their representatives, or to anybody, without even the requirement that they shall be citizens.

And I do not believe that they are quite prepared to say that, on the whole, they are ashamed of the Senators who, by the free choice of their legislatures, have for a hundred years represented them in this great national council.

It is a poor, cheap flattery of the people, this notion that suffrage is to be deified and that the results of suffrage are to be degraded; that the people have all wisdom and all honesty, but that their trusted agents are to be bought or cajoled. Will it not be the same people who choose the Senators and who choose the legislatures? Is there any evil influence which will operate upon the legislature which will not operate with like effect upon the convention?

But it is said that the choice of a nominating convention is but the first step; any mistake it may make will be corrected by the people. But, Mr. President, except in most extreme cases, the correction must be worse than the evil which is to be cured.

At what cost are the people to vote down the nomination made by the convention of the party which is in the majority because of their disapproval of a man who is its candidate for the Senate? Of course, the plurality system will be applied to this, as to every popular election. The people, then, must manifest their disapproval of an unworthy candidate regularly nominated only by transferring their

support to the candidate of another party. It is not likely that any man who would get the nomination of his party convention will be so unpopular that substantially the whole membership of his party will refuse to support him. What will happen will be the choice of the candidate of another party.

Now, what does this mean? It means that the people of a State are to give their support to doctrines, measures, policies, political principles of which they disapprove solely because of their opinion as to the individual character of the man who represents them. We have a party in Massachusetts who think a protective tariff a monopoly, extortionate, robbery, and plunder of the many for the benefit of the few. They think it operates grievous and intolerable injustice in its application to the individual citizen, and that its effect upon the national welfare is immoral, evil, disastrous.

And yet if any of them happen to think that a man nominated by their party to represent these opinions is not a good man, they are to send to Washington a man who supports all of these things simply because of their opinions as to an individual character. They must prefer a man who makes his country the instrument of robbers, monopolists, plunderers, and evil managers of finances, who is amiable and honest in private, over a dishonest and unamiable man who will put an end to all this iniquity.

In other words, the correction of the mistakes made by the political convention is only to be made at the cost of destroying the character of the country because of the character of the candidate. The amiable man who has no objection to dishonest and fraudulent elections is to be preferred to the unamiable man who wants honesty and fairness in elections. I have no doubt but that in extreme cases a man may be nominated by mistake, by deception, by public indifference, as a candidate of my party, whose personal character is such that it would be my duty to refuse him my support, whatever happened. But those cases will, I believe, be extremely rare, and if the disease to be remedied be wholly evil, the remedy itself is almost as bad.

Mr. President, the experience of our first century has, it seems to me, most amply vindicated the constitutional purpose which resulted in the Senate. It is not expedient to have two houses both directly dependent on the popular will. I would not speak with disrespect of the House of Representatives. Every American who knows the history of his country must feel a just pride in that great assembly, which has been and will hereafter be the direct representative of the people's will. The names of its great leaders—of Clay, of John Quincy Adams, and of Thaddeus Stevens—rise to the lips when we would stir in the hearts of any American assembly the emotion of national pride or the love of constitutional liberty.

If there be anything in its conduct which at any time impresses the thoughtful observer unpleasantly, I think he will admit that, on the whole, it bears comparison with the French Assembly, or the great representative body of Germany, or even with the British House of Commons. But the constitution of that House has compelled it to resort to many devices and to submit to many inconveniences. We should all be sorry if we were compelled to submit to them in the Senate. The freedom of debate in the House of Representatives is gone. What I sometimes think is even of more importance, the freedom of amendment is gone also.

Both these great essentials to wise and honest legislation exist only to a very limited extent, and then at the pleasure of the majority. It is here only that the freedom of debate is secure.

From all this has grown up the most pernicious of unconstitutional practices, that of filibustering, which was introduced originally to prevent hasty or arbitrary action by the majority, but is now used to prevent or overthrow the rule of the majority altogether. So that the course of legislation in that House to-day is this: A few great measures, to which the party in the majority is agreed, are carried through by special rules adapted for the purpose, the minority being deprived of all rights of reasonable debate or reasonable amendment.

All other measures, however important, however salutary, however much desired by the majority of the House and a majority of the people, are at the mercy of a small and resolute minority. In the last House the antioption bill, which I regarded as an evil and pestilential measure, and the bankruptcy bill, which I regarded as a wise and salutary measure, met the same fate in spite of the desire of a clear and large majority of that body for their passage. This condition of things is unrepublican and undemocratic, and if continued long must result in the overthrow of republican government itself.

Another evil of like character and of equal magnitude has grown up from the necessities, or the fancied necessities, in the transaction of business in the House of Representatives.

The question whether an important measure shall be submitted to the House for consideration has to be determined, not by individual Members, not by chosen committees, not by the majority of the House itself, nor even by its unanimous consent in many instances, but by the will of the presiding officer alone. He determines, at his sole volition, what Members shall be recognized and what measures the House shall be asked to consider.

It is notorious that many measures of vast importance, many measures of relief demanded by justice and by the national good faith, abide session after session and Congress after Congress, having received the support of this body, and which would have received the

unanimous consent of the other if they could be taken up, which never can be heard in that House because of the refusal of its presiding officer to submit them.

Now, Mr. President, habits like this in the conduct of legislation do not grow up and keep their place without some grave public reason, or at least some grave public necessity. It may be that a body which represents, as does that House, a temporary and sometimes fleeting popular purpose requires such restraints and chains and fetters as these for the public safety. I think we may well pause before we give to this body a character which will require such obstacles to be placed in the path of its free action. The time may come—some of us thought that it was near at hand—when it may be necessary to introduce even here a rule for a limited and carefully guarded clôture in debate.

Every member of this body would regard that as a most painful necessity. If that time ever comes, it will be because rules established for the protection of freedom of action in the Senate have been abused to prevent and subvert it. But I hope and believe the time will never come when any question will be taken in this Senate in regard to which every Senator shall not have an opportunity to express fully and freely his opinion in debate, and in regard to which he shall not have the fullest opportunity to offer amendments as seems to him desirable.

I suppose there have been a few instances of corruption of State legislatures in the election of Senators. In a few cases such attempts have been exposed and failed in the legislatures themselves. In a few cases they have been detected here. In very few, indeed, they have probably been successful. I thought the Senate touched its low-water mark when a few years ago it refused to investigate one of them. It is a great mistake to suppose that nominating conventions will be much more easily dealt with, or that popular elections have been or will hereafter be any more exempt from such influsnces. Have popular elections in ancient republics, or in England, or here been freer from corruption than elections through delegated and chosen assemblies? Mr. President, there will never, for any length of time, be venal legislatures without a corrupt people behind them.

Besides, there are, unhappily, other modes of destroying the freedom of elections, to which popular elections are exposed, from which legislative assemblies are free. The great prize of the office of Senator is, if this amendment be adopted, to be added to the temptations which, unless many a report in the other House be without foundation, have induced in very many instances in our history false counts, fraudulent naturalization, personation of voters, fraudulent residences, forged returns, intimidation, and mob violence. These attend

elections in great cities and in States where race differences still add their bitterness to the struggle for political power.

There have been, it is estimated, more than three hundred and twenty contested-election cases in the House of Representatives, They have been the scandal and reproach of our political history. Excepting a very few creditable examples, they have been decided for partisan considerations, as like cases were decided in the British House of Commons until jurisdiction was transferred to the judges.

I suppose it is not intended to take from the Senate the power to judge of the election of its own members. Until now the contested-election cases in the Senate have in general depended upon constitutional or legal questions, or upon facts easily ascertained and established. But if this change be made, the Senate, in every close election, must undertake investigations which will range over an entire State. A contest in New York, of Pennsylvania, or Illinois, or Ohio may put in issue the legality of every vote cast in a State of three million, or five million, or perhaps, within a generation, of ten million people. There will never be a close election without a contest here. Unless human nature shall change, the result of these contests will depend on partisan considerations and will shake public confidence in the Senate to its very foundation.

Let no man deceive himself into the belief that if this change be made the Senate of the United States will long endure. Another legislative system will take the place of that which our fathers devised for us, and which for a hundred years has been the admiration of mankind. The method of election is indispensable to secure the peculiar quality of the body to be elected. The change will lead to an attempted overthrow of the equality of the Senate.

The States never consented to perpetual equality in a Senate made up in any other way or on any other principle of selection. They never agreed that there should be forever between New York and Maine an equality in a legislative chamber which is only a house of representatives made up of differently constituted districts. In twenty years the State of New York will have ten millions of people, with a vote for every five persons. Do you think they will long endure to submit to equality in legislation, in the making of treaties, in the appointment of great executive officers, in the power to punish and remove great offenders, in the making of war, and in the making of peace, with the 8,000 voters of dwindling Nevada, when the two States are simply two representative districts, whose only difference is that one is two hundred and fifty times as large as the other?

New York submits to this loyally to-day. She has pledged her eternal allegiance to the Constitution. She can not change it without the consent of every other State. It is so nominated in the bond,

and is the price she pays for being the Empire State of an imperial nation. She can not escape it without a revolution. But open to her this door. Tell her that the Senate, as Hamilton and Jay conceived it, is gone. Tell her that it is no longer to be made up of chosen men, selected by chosen men, to be removed one degree from public impulse and passion, and representing the deliberate, sober, and instructed will of the people. She will tell you that her constitutional obligation has gone also and that the equality of the States in the Senate may henceforth be abolished or modified like other provisions of the instrument. "I never promised," she will tell you, "to submit to it forever under your new arrangement." "*Non in hæc fœdera veni*," or, as my great predecessor on this floor used to translate it: "I made no such bargain, and I stand no such nonsense."

Various methods of electing Senators were proposed and thoroughly discussed in the Convention, but the vote for the present method was at last unanimous. I think the suggestion of another method of choice is of quite recent origin and is more the outcome of circumstances that are not only recent, but will be temporary. Chancellor Kent, volume 1, page 225, says:

> The election of the Senate by the State legislatures is also a recognition of their separate and independent existence, and renders them absolutely essential to the operation of the National Government.

The Federalist, number 62, written by Hamilton, says:

> It is equally unnecessary to dilate on the appointment of Senators by the State legislatures. Among the various modes which might have been devised for constituting this branch of the Government, that which has been proposed by the Convention is probably the most congenial with the public opinion. It is recommended by the double advantage of favoring a select appointment and of giving to the State Government such an agency in the formation of the Federal Government as must secure the authority of the former, and may form a convenient link between the two systems.

Hamilton adds in the same number of the Federalist:

> In this spirit it may be remarked that the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States and an instrument for preserving that residuary sovereignty. So far the equality ought to be no less acceptable to the large than to the small States, since they are not less solicitous to guard by every possible expedient against an improper consolidation of the States into one simple republic.

The Convention which framed the Constitution, after some consideration, unanimously rejected the plan of choosing Senators by the people, and unanimously adopted the present system. Judge Story (Constitution, section 704) mentions as one of the reasons that this "would increase public confidence by securing the National Government from any encroachments on the powers of the States."

This idea deserves to be dwelt upon. The State legislatures are the bodies of men most interested of all others to preserve State jurisdiction—more than the governors, who may be expected to aspire to national employments. It is well that the members of one branch of the Legislature should look to them for their reelection, and it is a great security for the rights of the States. The State legislatures will be made up of men whose duty will be the administration of the State authority of their several State interests and the framing of laws for the government of the State which they represent. The popular conventions, gathered for the political purpose of nominating Senators, may be quite otherwise composed or guided. Here, in the State legislature, is to be found the great security against the encroachment upon the rights of the States.

How many instances there have been in our history in which an immediate popular vote would have led to disastrous consequences, but the sober second thought of the people has led to the path of safety. Mr. Madison said in the Constitutional Convention (see Madison Papers, vol. 2, p. 847):

> If the opinions of the people were to be our guide, it would be difficult to say what course we ought to take. No member of the Convention could say what the opinions of his constituents were at this time, much less could he say what they would think if possessed of the information and lights possessed by the members here; and still less what would be their way of thinking six or twelve months hence.

Suppose that if, instead of action through a convention, the adoption of the Constitution itself had been submitted to a direct popular vote, it would have been rejected by a majority of the States, certainly by the States of Connecticut, Massachusetts, New York, and Virginia, the four great States without whose cooperation the establishment of national government would have been impossible. How many times great waves of delusion have swept over the land, whose force was broken by the sober discussions of deliberate assemblies. The great anti-Masonic movement of 1835, the Know-Nothing movement of 1854 and the years that followed, are but two out of many examples.

Neither Charles Sumner nor Salmon P. Chase could have been elected by a popular vote when they were first chosen. Mr. Sumner certainly would have gone down before the Know-Nothing movement, which he so bravely breasted, if the question of his reelection had been submitted to a popular vote in Massachusetts in 1855. It is quite doubtful if Mr. Webster himself would have been chosen by a direct vote of the people of Massachusetts at any time after 1850.

It is the purpose and the effect of this constitutional amendment to overthrow State autonomy in two particulars, in regard to which the

State is to be bound and fettered for all time unless two-thirds of the two Houses of Congress and three-fourths of the States shall hereafter consent to retrace their steps

First, the States, in many instances, distribute their political power evenly. The people are represented in the State legislatures by their neighbors and associates, by men whom they know and whom they respect and who represent the local feeling.

This proposed amendment requires the voice of the State to be uttered by masses of its citizens, and removes political power to the great masses who are collected in our cities. Chicago is to cast the vote of Illinois, Baltimore of Maryland, New York City of the State of New York, and Cincinnati of Ohio. The farmer class, which now have their just weight, will be outweighed by the dwellers of the great towns where the two extremes meet—great wealth and great poverty—and combine to take possession of the affairs of the Government.

Second, plurality must take the place of the majority. The opportunity for third parties to have a just and reasonable weight will be destroyed.

Besides, there will be larger opportunities for fraud and crime in elections. These will be easy to commit and hard to be inquired into.

Mr. President, a people has always a distinct individual character. A city, a State, a nation, is very human. It has its hopes, its fears, its passions, its tastes, its prejudices, its resentment, its affection, its hasty impulse, its sober judgment, its deliberate will. We attribute to it the moral qualities of patience, endurance, and self-sacrifice. These qualities are made up of the prevailing temper of the men and women who possess them, but they are of a higher standard than is attained by any individuals except the best.

The Spartan or the Swiss or the American quality is as well known and as individual and distinct as that of the great heroes of history. It is this trait that causes the affection which we feel for our country. We love it with an individual love. We cherish it with a supreme affection. Men die for it as they would die for wife or parent or children. It is therefore no dishonor to the American people that we demand that in the conduct of their great affairs they shall do what every wise man and every good man and every brave man is expected to do in the conduct of his own.

It is no affront to the American people to require that they shall be asked to secure that deliberation, that caution, that putting aside of hasty impulse and passion in their important affairs that every wise man practices in his own. The Republic is no mushroom growth. It is an oak which adds ring to ring through many a summer's heat and winter's cold. Its glorious gains come slowly that they may come surely. The deliberate will of the people is

however, sure and certain of accomplishment. Whatever the American people have thoughtfully, wisely, and patiently considered and designed and resolved upon, that result is sure to be accomplished. And our present constitutional forms and mechanisms have always proved abundantly sufficient for its accomplishment. And it is harldly too much to say that the great beginnings of popular movements for liberty have been in the Senate.

Mr. President, it is not true that the Senate, in the sober judgment of the American people, has failed to meet the just expectations of the generation who framed and adopted the Constitution. It has responded quite as speedily and quite as directly to the sober conclusion of the popular judgment and to the settled desires of the popular heart as has the other House or as has any State legislature.

It has originated far more than its proportion of the great measures in our legislative history, for the benefit of the people, which are found in our statute books.

It has resisted what is evil, but it has also initiated and accomplished what is good. This was never more true than in recent years. It is not too much to say—and I assert it without fear of successful contradiction—that—

If any private citizen want justice;

If any executive officer want to improve administration;

If any man desire new and wholesome laws;

If any man want the public mind awakened by discussion—he seeks and he finds what he desires in the Senate. Why, even the friends of this amendment to the Constitution come here for its first serious discussion.

It is said the recent elections of Senators in States lately admitted have been attended with some occurrences that tend to bring the present method of choosing them into disrepute. There has been no investigation into this matter. No man here can say how much truth there may be in these reports, in the charges of suspicions which appear in the columns of the newspapers. The fact that those elections have resulted in a way some of us do not like is of little importance.

The only questions are whether whatever evil may have attended them is likely to be permanent, and whether the same evils would not have existed if the choice had been by popular election, and have not existed to an equal degree in the choice of governors and Representatives in Congress. When we consider the circumstances of these new communities, it is astonishing and gratifying that they have done so well. It seems to me that the inauguration of their governments was creditable to them. Their population is spread over large spaces of territory.

The people of the different parts of the new States are unknown to each other, and the representative or senator in the State legislature is frequently little known to his constituents. Mingled with the honest and enterprising men who have chosen their residences in the honorable ambition to achieve fortune for themselves, to perform every duty of good citizenship, to build on sure foundations States of the best kind, are adventurers, criminals, men from all parts of this continent, and from Europe and Asia, some of whom have left that country for their country's good. They are not worse than other communities in this respect, but they have less opportunity to know each other. They will compare most favorably with the dense populations of some Eastern cities. But the people of this class are there.

These communities are called upon to take upon themselves the great function of government under circumstances which would have rendered success impossible to our ancestors at Plymouth or Boston or New Haven or Philadelphia. Suppose that, added to the chosen and venerable men who founded the old thirteen States, there had come across the sea adventurers from all Europe; suppose that on the first organization of their legislative bodies had depended the political ascendency of one or the other of the contending factions who were struggling for the political control of all Europe; suppose that every passion and ambition and jealousy and evil desire which entered into such a controversy had followed them into their new domains and had blazed even more fiercely among them; suppose men of large wealth were ready to corrupt them to the service of their own personal ambitions; suppose members or emissaries of the national committees of great parties had seated themselves with their money bags at their gates—is it likely that the Puritans at Plymouth, or the Cavaliers of Jamestown, or the Quakers of Philadelphia would have succeeded any better in founding their States than our countrymen and brethren in the far West? But all these things will pass by. The people will come to know each other. They will understand their permanent interests. Combinations of dishonest men will be powerless before the honesty and intelligence of the people. Property will increase. Every honest and industrious man will get his share, and the interests of property will have their due and just influence. The people will choose legislators whom they are willing to trust with their local concerns, and so fit to be trusted to select the men who are to wield their share of national power.

I do not think the American States that have come into the Union within the last twenty-five years have any reason to shrink from a comparison with any others in respect to the honesty, the capacity, the industry, the fidelity, or the wisdom of the men who have represented them in the national councils. While I have dif-

fered with them, or with most of them, upon some very important questions, I believe that if we had had a Senate and a House composed wholly of the representatives of these new States our national legislation would have gone on well, and would have been, in general, acceptable to the people of the whole country.

The argument of the able Senator from Illinois, which I have read with much care, is summed up in three propositions:

First. That the people of Illinois believe that under existing conditions the election of Senators by their State legislatures has failed of satisfactory results.

Second. The framers of the Constitution did not properly estimate the intelligence and capacity of the then people of the several States. Most of the members of the Convention were themselves still under the influence of inherited aristocratic ideas, and were without experience of the successful workings of popular institutions.

Third. The legislature of Illinois before 1847 was omnipotent and abused its great powers. The constitution of 1847 deprived the legislature of its electoral powers and conferred the election of governor and judges upon the people. The names of the illustrious men who have since composed the supreme court of Illinois, elected by the people, have justified the highest hopes of those who favored the innovation.

I have stated these propositions in the Senator's own language. They contain his entire argument. Let us look at them. "The election of Senators in Illinois under existing conditions," says the Senator, "has failed of satisfactory results." He invites us to a contrast with the results attained by popular elections since 1847, under which governors and illustrious judges have been chosen by the people.

The Senators of Illinois in 1847 were Stephen A. Douglas and Sidney Breese. Does the Senator doubt that Stephen A. Douglas would have been chosen by the people of Illinois, if the question had been submitted to them, on every occasion when he was chosen by the legislature?

Mr. PALMER. Will the Senator allow me to answer that question?

Mr. HOAR. Certainly.

Mr. PALMER. Judge Douglas would undoubtedly have been chosen by the people at any time except at his last election, when the popular vote was against him.

Mr. HOAR. I do not so understand it. Was not Sidney Breese, successively justice and chief justice, one of the most illustrious of the illustrious men whom the Senator says the people of Illinois elected to the bench? They were succeeded by James Shields, the gallant soldier of Irish birth, who represented three States in this body, and by William A. Richardson. Will it be claimed that either of

these eminent men would not have been chosen if the people could have chosen them? Next came Lyman Trumbull and Richard Yates. Trumbull was elected by the people to the supreme bench in 1848 and Yates was governor. Then came Richard Oglesby, three times chosen governor, and John A. Logan, the most illustrious volunteer soldier of the war and the favorite candidate of Illinois for the Presidency. I do not think we have quite yet reached the "failure under existing conditions."

Next we have David Davis, three times chosen judge by the people, who came at last to the Senate from the bench of the Supreme Court of the United States, where Abraham Lincoln had placed him. Can the Senator from Illinois place his finger upon one of this illustrious line, who did grace and honor to the Senate, who was not among the foremost citizens of his noble State or who would not have been chosen if the choice had been by the people? Then comes CULLOM, the friend and pupil of Abraham Lincoln, twice governor by the choice of his fellow citizens, as he has been twice Senator by the choice of the legislature. Has the Senator yet reached the period for his argument that the legislative selection of Senator is on a lower level than the choice of the people for governor or for judge?

There remains to be considered the case of the Senator himself. I might otherwise feel a delicacy in discussing it. But the facts strongly support my argument, and, as stated in his ample autobiography, are so highly creditable to him, that I must be pardoned for alluding to them. After a career of brilliant civil and military service, and after having been tried for four years in the office of governor, he was nominated for governor again in 1888. The ungrateful people of Illinois defeated him by a majority of 38,000 on a direct popular vote.

Mr. PALMER. I ask pardon. Will the Senator please state again the majority?

Mr. HOAR. Thirty-eight thousand in 1888.

Mr. PALMER. My colleague [Mr. CULLOM] will furnish different figures.

Mr. HOAR. I have taken the figures very carefully, taking the votes of all other parties.

Mr. CULLOM. As my colleague [Mr. PALMER] has referred to me, I will state that, so far as the two prominent candidates were concerned, my colleague and his opponent, Governor Fifer, my colleague was defeated for governor by about 12,500 votes, if I remember correctly.

Mr. HOAR. At any rate, it is enough. The people of Illinois defeated him by 12,500, without counting the third party or the fourth party vote; and then he was elected Senator by the legislature. The people of Illinois elected a legislature whose majority was origi-

nally opposed to him. But on conference and comparison of views he was finally selected.

Now, if the Senator from Illinois means to affirm that this, the latest result of choosing Senators in Illinois by the legislature, is unsatisfactory to the people, we who know the value of his service must be permitted respectfully to dissent.

The Senator from Oregon [Mr. MITCHELL] has brought to the discussion of this interesting question the great industry and the great ability which always characterize his contributions to our debates. I have carefully read his argument of April 22, 1890. I think he summed up in that all the chief reasons for this change. He begins with a history of the proceedings of the Convention which framed the Constitution, so far as they deal with this subject. As I have already observed, he imputes to that Convention and to its members a distrust of the people. I differ from him in that opinion, as I do from the Senator from Illinois [Mr. PALMER], who utters the same opinion.

I think the members of the Convention exhibited a sublimer trust in the people than any other body of men who have been gathered together in human history. They were, some of them, the same men who signed the Declaration of Independence in 1776. They were inspired by the same faith that inspired the Congress which, as its final act, ordained that great security of freedom—the Ordinance of 1787. They were laying the deep foundations of what was hoped would be an eternal structure. Every stone, every beam, every rafter, was laid in confidence of the wisdom and the justice of the people and their eternal capacity for self-government. Trust in the people was with them an article of profoundest religious faith. They derived the great doctrine of human equality, which they placed in the forefront of the Declaration which made us a nation, from the word of the Creator of mankind himself, as they read and interpreted it.

But, as I have already said, their confidence in the people was like the confidence we feel in a wise, just, and righteous man, capable of self-government and understanding and self-restraint, who in the great actions of life exercises for himself deliberation, reflection, self-control. It was the immediate action of the people which they deprecated. It was final and absolute self-control and self-government which they ordained and secured.

The Senator from Oregon said that the Constitution these men ordained has required amendment. He is amazed that the amendments were not understood and incorporated in the Constitution by the men who originally framed it. But the Senator has failed to see that every one of these amendments; from the first to the fifteenth, is an amendment in the direction of putting new control upon the immediate and direct action of majorities. Every one of them secures the rights of the people by a restraint upon their power. Every one,

with a single exception in the change of the method of electing the President—adopted after the election of Mr. Jefferson—both the original twelve and the three that have been adopted in our time, are simply declarations of those things which, for the welfare of the whole people, no majority under our Constitution shall be permitted to do.

The Senator goes on to announce, as the foundation of his argument, the principle that no system can be properly termed free or popular which deprives the individual voter of his right to cast his vote directly for the man of his choice for any office, whether it be a State officer, Member of the national House of Representatives, United States Senator, or President. And the logic of his position compels him to avow this doctrine. So that, if the people go with him, this amendment must be followed by others, under which the United States judiciary and the President and the Vice-President are to be chosen by the action of a direct popular majority. This may be sound policy; but when it is established, the Constitution of the United States is gone.

The Senator further adds that in his judgment lodging this power in the State legislatures tends to the election to the legislature of a man solely because of his opinions as to election of a Senator, and the "question as to his qualifications for the business of the general legislature, or the views he entertains with reference to the great material interests of the State—internal improvements, assessments, taxes, revenues, corporations, appropriations, trusts, municipal affairs, salaries and fees of officers, civil and criminal code, apportionment, and other like important subjects—are wholly lost sight of."

I can only oppose to this opinion of my honorable friend my own opinion that this is a very important consideration in favor of the present system. I think that it is best to commit this great function of choosing the members of this body to the deliberate and careful judgment of men who are trusted with every other legislative function of sovereignty, and not to adopt a method which in practice will commit it to men whom the people trust with nothing else.

Mr. President, if you take from the men who now represent the sovereignty of the State in all its domestic relations the right to choose the men who are to exercise its share of national legislation, you will diminish their weight and character. You will get for the discharge of both duties men less fitted to be trusted with either.

The Senator from Oregon says that he finds, as a chief reason for promoting the change—that he finds everywhere discontent and unrest. If he means that he finds everywhere discontent with the present method of choosing Senators, or with the existing Constitution of the United States, or even among thoughtful men with the Senate itself, I must express my dissent from his opinion. On the

contrary, I believe that any intelligent assemblage of American people will unite as readily and enthusiastically in praise of their National Constitution as at any time since it went into operation. I believe, if called upon to declare what it is in the Constitution they especially value, they would now, as ever, state that among the chief titles to their regard are the Senate and the national judiciary.

If the Senator means that there is a general feeling of dissatisfaction with existing conditions, that our social life is disturbed, that the classes in society are getting into conflict with each other, that the people are in that frame of mind which precedes a great revolution—while I think he exaggerates very much the state of feeling, so far as he is right I think he urges an especial reason for not changing the Constitution to-day. Certainly such a change should be made, soberly, quietly, deliberately, and by men who can look through the history of a century, and not look merely at the fleeting and passing evils.

I have read also with great attention the argument upon this subject by the accomplished and thoughtful Senator from Indiana [Mr. TURPIE]. He thinks that neither of the three departments of the National Government is now controlled by the people. If he means that the choice of neither is directly controlled by the people, I would remind him that not only one of our two legislative branches is the direct popular choice according to numbers, but that action of the electoral colleges is, in fact, a direct expression of the popular will. So that the House of Representatives, which shares equally with the Senate in power of affirmative legislation, and the President, with his executive and treaty-making powers and his veto upon all legislative action, are the result of direct popular choice.

If he mean that, when our three departments of Government are chosen, their action should be the result, not of the individual conscience and judgment of the legislature, of the executive, or of the judge, but should respond to the present and instant pulsation of the popular heart, I answer that I think he is wrong in desiring a government so constructed or administered.

If the Senator's doctrine be sound, it seems to me it should be applied everywhere; that the people should, as far as possible, deliberate for the legislature, execute for the officer, and decide for the judge. If, as I believe, that be the worst and not the best theory of government on earth, the doctrine should be applied nowhere.

Mr. President, the Senator from New Hampshire [Mr. CHANDLER] well said that this is the first change ever seriously proposed in the framework of our National Government. All the other amendments have been restraints upon the people's will to secure the people's rights. The amendment in the time of Mr. Jefferson only required the designation by the electoral college of the offices to be held by the

persons for whom their votes were cast; a change shown to be necessary by the experience in the famous contest between Jefferson and Burr.

Never before has there been proposed, so far as I know, a change which is to affect the great balance of political power which our fathers adjusted with so much care. I quite agree with the Senator from Oregon that the principle of this change will lead to the choice of the President, the choice of the Senators, and in the end to the choice of the judges by the mere brutal force of numbers. I do not agree with him in thinking such a change is desired by the American people. When it shall be accomplished, the American Constitution is gone.

Mr. President, I have no respect for the habit which has long since grown up of undervaluing the character of American legislative assemblies. Since our Government went into action it has been the habit of thoughtless persons or of persons who in their own lives have had no experience in public responsibilities—the habit has even crept into grave histories—to decry and disparage the Continental Congress. The men who made up that illustrious body began their services with the great state papers which commanded the admiration of Chatham, who declared that although he had read Thucydides and was familiar with the work of the master minds of the past, in his judgment they equaled anything in antiquity.

These papers—the address to the King, the address to the British people, and the address to the people of Ireland—were followed by the Declaration of Independence. It was the same Continental Congress whose wisdom selected Washington for the command of our armies and Franklin and John Adams for our diplomatic agents abroad. It was the same Continental Congress which stood faithfully by Washington during the seven years of the Revolutionary war, which ended its labors with the great Ordinance of 1787, and whose members composed in large part the body which framed the Constitution itself.

Of the thirty-nine men who signed the Constitution, eighteen signed the Declaration. Ellsworth, who signed the Declaration, was absent when the Constitution was completed. Gerry, who signed the Declaration, refused to sign the Constitution. The failure, if there were any failures in the conduct of the Revolutionary war, was the failure of the people of the American States, who were too jealous to part with their own power or to establish and trust the necessary agencies for their own protection and safety.

The legislature of my own State has had two hundred and sixty years of illustrious history. During my life, while the legislature has been in session, it has been the target for the sneers of critics and of

the press. But every session has ended its own term of laborious service, completing a record in which always is to be found some new and valuable legislation for humanity, for labor, for education, for administration of justice, which is alike beneficial to their own constituencies and an example to the people of other Commonwealths.

I am neither afraid nor ashamed to compare the statute book in which is found the essence of the history of Massachusetts for nearly three centuries with any other body of laws which may be produced by any other Commonwealth or by any nation. I believe the men who have done this work have performed also to the satisfaction of the people the important work of selecting their representatives in the National Senate.

Why, it is said the Senate has not responded to the popular will. When has it failed to respond to the popular will when the popular will itself had become settled? The gentlemen who make this complaint are impatient. They must remember that the Senate has to act for the interests of a people of 65,000,000 and for a nation whose life is to be measured, not by years or by generations, but by centuries. Sessions of Congress, terms of Presidential office, generations of men, count but as minutes, are but as the pulsation of an artery in this mighty national life. But whenever the American people has made up its mind, when its judgment is formed, when its will is determined, that will is sure to be carried into effect. Whether through Senates or over Senates, through courts or over courts, through Presidents or over Presidents, through constitutions or over constitutions the irresistible current will make its way.

Mr. President, I have no patience with the spasms of dismay which seem now and then to affect some worthy philosophers, anr the effects of which are occasionally seen in the Senate Chamber. One day there is a fear that a few speculators in cotton or corn will diminish the price to the seller and raise it to the buyer; and so we are asked to overthrow and sweep away all of the rights of the States by a single legislative act, and a majority of this body and the other House lose their heads and are taken off their feet. They think all our existing constitutional resources are powerless before a few speculators. So, because a few millionaires clink their money bags about our State legislative halls, it is proposed to overthrow the Constitution of our fathers and build up a pure democracy in its place.

The American people have dealt with dangers that were serious before. They have put down rebellion, they have abolished slavery, they have thrown off the yoke of foreign tyranny by strictly constitutional processes, and with the weapons in their hands that have served them so well in the past they have no occasion for apprehension of these new dangers.

Contempsi Catilinea gladios, nom pertinescum tuos.

The people of the United States are proud of their history. It is a touching and noble story. The American youth knows something of the annals of other lands. His childhood has delighted in the half-fabulous legends by which they explain their origin. He is especially acquainted with the history of the older republics and of countries where constitutional liberty has in other years found its home. He can tell you something about Solon and Lycurgus, about Romulus and the she wolf, of Numa in his cavern, of Tell and Winkelried, of Alfred and Edward, of Agincourt and Cressy, and the barons who wrung Magna Charta from King John.

But he better loves the story, with which no romance or fable mingles, upon which history pours its full and blazing torchlight, of the men who founded these States of ours in Christian liberty and law. He likes better to hear of the Pilgrim of Plymouth, of the austere Puritan of Salem and New Haven, of the liberty-loving enthusiast of Rhode Island, of the Quaker of Pennsylvania, of the Catholic of Baltimore, of the adventurous Cavalier of Jamestown. He knows the quality of the woodsmen who, in the later generations, struck their axes into the forests of this continent; of the sailors who followed their prey from the Arctic to the Antarctic Sea. He knows how his country has spread from a little space by the side of the Eastern sea, till in her westward march the gates of the East become visible again, and she has added to her dominion until, as my late colleague said, "before the sun sets upon Alaska he has risen upon Maine." He knows by heart the military achievements of the Revolution and the great sea fights of the war of 1812. He knows what this country has done in science and literature. He knows what her inventive genius has added to the world's wealth and how it has lifted the burden beneath which the back of humanity has so long been bowed and bent.

But he knows, also, something of that which makes these great achievements permanent and secure. He knows something of the great foundations upon which the structure of our Constitution is reared. He knows something of the temperate restraints of American liberty. The figures of great judges and of great Senators command his admiration and stir his enthusiasm and excite his sober approbation quite as much as any achievement by sea or any military glory upon land. The profound sagacity of Ellsworth, whose great fame in the beginning of the Government reached the people even from within the closed doors of the Senate Chamber; the unequaled wisdom of Marshall, without whose luminous exposition the mechanism of the Constitution must have failed; the robust sense of Taney; the ripe learning and lofty patriotism of Bradley—these will be as familiar to his instructed intelligence as the name of any great

captain or admiral. He comes of a race of political shipwrights, and he knows by heart below and aloft the whole structure of our ship of state. He knows to the fullest depths of its meaning what the flag stands for. He knows how to bend the sails and step the masts. He likes only too well the sound of the guns. But he has found out that it is not the colors, or the armament, or even the sail that makes the ship stanch and the voyage prosperous and secure. It is the tough resistance of the mast, the strength of the timbers, the fashion of the keel, the strength below the water line, the chain and the anchor, to which the ship of state, with her precious freight, owes her safety.

He knows what master laid her keel;
What workmen wrought her ribs of steel;
Who made each mast, and sail, and rope;
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchors of her hope!
He fears no sudden sound or shock,
'Tis of the wave, not of the rock;
'Tis but the flapping of the sail,
And not a rent made by the gale!

I said in the beginning that this is a question of centuries and not of years. It is to the credit of the men who framed the Constitution that they so understood it. If they had taken counsel of their own recent experience, they never would have ventured to appeal to the people of their own generation to establish the permanent securities of the Constitution, and would never have ventured to trust them with the powers which the Constitution creates.

The six years which followed the peace of 1783 present but a sorry story. It is a tale of feeble government, of disaster, of discontent, of broken faith, of depreciated currency, of stay laws, of suffering debtors, of cheated creditors, of lawlessness, of Shays's rebellion, and of popular commotions North and South. Some of our best friends abroad thought it was all over with us, and that the best thing we could do was to ask George III to take us back into favor. But out of it came the Ordinance of 1787, the Constitution of the United States, the design of the Supreme Court, the conception of the Senate, the great debate upon the adoption of the Constitution, and the adoption of the Constitution by the unanimous action of thirteen States.

We have had one great civil war. But yet it is our glory, as it is the glory of the country from which our ancestors came, that we determine the differences which cause revolutions elsewhere by debate and not by arms. We reason them out, and do not fight them out. This Chamber has been the most conspicuous arena of these conflicts. Here the champions have encountered and measured their strength.

There have been chieftains in the Senate Chamber whose names and memory the American people cherish with pride and gratitude, as they cherish the names and memory of the men who marshaled the forces at Saratoga, or Yorktown, or New Orleans, or Appomattox.

The great conquests which gave the Union and Constitution their empire over the reason and affection of our countrymen have been achieved here. Here Webster hurled the weighty projectiles of his irresistible argument. Here the voice of Clay taught his countrymen North and South the great lesson of reconciliation. Here Calhoun was borne in his dying hours, his great heart overcoming the weakness and infirmities of his sinking body, sitting, as his colleague said, like "a wounded eagle, with his eyes turned to the heavens to which he had soared, but into which his wings could never carry him again." Here the blood of Sumner was shed—the baptismal water of our newer liberty. Here Seward summoned his countrymen to that irrepressible conflict from whose issue the vanquished gained even more than the victors. Victories in arms are common to all ages and to all nations. We do not excel, and it may be we do not equal, other people in these things. But the greatest victories of constitutional liberty since the world began are those whose battle ground has been the American Senate and whose champions have been the Senators who for a hundred years, while they have resisted the popular passions of the hour, have led, represented, guided, obeyed, and made effective the deliberate will of a free people.

Senate Document No. 406, Fifty-seventh Congress, first session.

Mr. GALLINGER presented the following

LIST OF PRINCIPAL SPEECHES AND REPORTS MADE IN CONGRESS IN RECENT YEARS UPON THE PROPOSED CHANGE, CORRECTED AND EXTENDED TO JUNE 12, 1902. ALSO A REPRINT OF THE PRINCIPAL DOCUMENTS RELATING TO THE SUBJECT OF THE ELECTION OF UNITED STATES SENATORS INTRODUCED IN CONGRESS DURING THE SAME PERIOD OF TIME.

JUNE 13, 1902.—Ordered to be printed.

ELECTION OF UNITED STATES SENATORS BY THE PEOPLE.

List of principal speeches and reports made in Congress in recent years.

SENATE.

[For the proposed change.]

Date.	Session.	By whom made.	Record, pages.	Report number.
Dec. 17, 1891	52d, 1st	Turpie, David, Indiana	Vol. 23, pp. 76–80	
Feb. 18, 1892	52d, 1st	Palmer, John M., Illinois	Vol. 23, pp. 1267–1270	
Do	52d, 1st	Mitchell, John H., Oregon	Vol. 23, p. 1270	794, 2 parts.
Apr. 12, 1892	52d, 1st	Palmer, John M., Illinois	Vol. 23, pp. 3201, 3203, 3204.	
Feb. 12, 1895	53d, 3d	Turpie, David, Indiana	Vol. 27, p. 2062	916, 2 parts.
Feb. 6, 1896	54th, 1st	do	Vol. 28, pp. 1382–1385	
June 5, 1896	54th, 1st	Mitchell, John H., Oregon	Vol. 28, pp. 6151–6152, 6161–6162.	530, 2 parts.
Do	54th, 1st	Palmer, John M., Illinois	Vol. 28, pp. 6159–6161	
Do	54th, 1st	Perkins, George C., California	Vol. 28, pp. 6152–6156	
Mar. 23, 1897	55th, 1st	Turpie, David, Indiana	Vol. 30, pp. 169–173	
Mar. 11, 1902	57th, 1st	Berry, James H., Arkansas	Vol. 35, pp. 2775, 2776	
Do	57th, 1st	Burrows, J. C., Michigan	Vol. 35, p. 2775	
Do	57th, 1st	Dubois, F. T., Idaho	Vol. 35, pp. 2776, 2777	
Do	57th, 1st	Mitchell, John H., Oregon	Vol. 35, p. 2775	
Apr. 11, 1902	57th, 1st	Money, H. DeS., Mississippi	Vol. 35, pp. 4229, 4237	
Do	57th, 1st	McLaurin, A. J., Mississippi	Vol. 35, p. 4237	
Do	57th, 1st	Blackburn, J. C. S., Kentucky	Vol. 35, p. 4238	
May 8–9, 1902	57th, 1st	Berry, J. H., Arkansas	Vol. 35, pp. 5511, 5573–5577.	
May 9, 1902	57th, 1st	Burrows, J. C., Michigan	Vol. 35, pp. 5573, 5574	
Do	57th, 1st	Blackburn, J. C. S., Kentucky	Vol. 35, pp. 5574, 5575	
Do	57th, 1st	Bailey, Joseph W., Texas	Vol. 35, pp. 5576, 5578, 5579.	
Do	57th, 1st	Mitchell, J. H., Oregon	Vol. 35, pp. 5577–5578	
June 11, 1902	57th, 1st	Berry, J. H., Arkansas	Vol. 35, pp. 7076, 7077	
Do	57th, 1st	Clapp, Moses E., Minnesota	Vol. 35, pp. 7077, 7078, 7079.	
Do	57th, 1st	Bacon, A. O., Georgia	Vol. 35, p. 7079	
Do	57th, 1st	Burrows, J. C., Michigan	Vol. 35, pp. 7079, 7081	
Do	57th, 1st	Blackburn, J. C. S., Kentucky	Vol. 35, pp. 7079, 7080	
Do	57th, 1st	Bailey, J. W., Texas	Vol. 35, pp. 7081, 7082	

List of principal speeches and reports made in Congress in recent years—Continued.

SENATE.

[Against the proposed change.]

Date.	Session.	By whom made.	Record, pages.	Report number.
Feb. 18, 1892	52d, 1st	Chandler, Wm. E., New Hampshire.	Vol. 23, pp. 1270, 1271	794, 2 parts.
Apr. 12, 1892	52d, 1st	do	Vol. 23, pp. 3191, 3195, 3201, 3203.	
Apr. 6, 7, 1893	53d, 1st, Senate special.	Hoar, George F., Massachusetts	Vol. 25, pp. 67, 97, 101, 110.	
Feb. 12, 1895	53d, 3d	Gray, George, Delaware	Vol. 27, p. 2062	916, minority.
June 5, 1896	54th, 1st	Chandler, Wm. E., New Hampshire.	Vol. 28, pp. 6157-6159, 6160.	530, 2 parts.
Do	54th, 1st	Hawley, Joseph R., Connecticut	Vol. 28, p. 6161	
May 29, 1900	56th, 1st	Chandler, Wm. E., New Hampshire.	Vol. 33, p. 6189	Oral.
Mar. 11, 1902	57th, 1st	Hoar, G. F., Massachusetts	Vol. 35, pp. 2776, 2777	
Do	57th, 1st	Stewart, Wm. M., Nevada	Vol. 35, pp. 2777, 2778	
Mar. 14, 1902	57th, 1st	Penrose, Boies, Pennsylvania	Vol. 35, p. 2945	
Apr. 10, 1902	57th, 1st	Depew, C. M., New York	Vol. 35, pp. 4179, 4180	
Apr. 11, 1902	57th, 1st	do	Vol. 35, pp. 4233, 4234, 4240, 4241.	
May 9, 1902	57th, 1st	do	Vol. 35, pp. 5574, 5577	
Do	57th, 1st	Spooner, John C., Wisconsin	Vol. 35, pp. 5574, 5575, 5577.	
Do	57th, 1st	Hoar, G. F., Massachusetts	Vol. 35, pp. 5574, 5576, 5578.	
Do	57th, 1st	Foraker, J. B., Ohio	Vol. 35, pp. 5577, 5578	
Do	57th, 1st	Pettus, E. W., Alabama	Vol. 35, pp. 5578, 5579	
Do	57th, 1st	Morgan, John T., Alabama	Vol. 35, p. 5579	
June 11, 1902	57th, 1st	Hoar, Geo. F., Massachusetts	Vol. 35, pp. 7077, 7080	
Do	57th, 1st	Platt, O. H., Connecticut	Vol. 35, p. 7081	
Do	57th, 1st	Foraker, J. B., Ohio	Vol. 35, p. 7081	
Do	57th, 1st	McComas, L. E., Maryland	Vol. 35, p. 7081	
Do	57th, 1st	Vest, George G., Missouri	Vol. 35, pp. 7081, 7082, 7083.	

HOUSE.

[For the proposed change.]

July 12, 1892	52d, 1st	Bryan, Wm. J., Nebraska	Vol. 23, pp. 6071, 6072	
July 20, 1894	53d, 2d	do	Vol. 26, pp. 7775, 7776	
July 12, 1892	52d, 1st	Bushnell, A. R., Wisconsin	Vol. 23, p. 6066	368, 2 parts.
Mar. 30, 1896	54th, 1st	Corliss, J. B., Michigan	Vol. 28, p. 3373	994.
May 11, 1898	55th, 2d	do	Vol. 31, pp. 4809, 4811, 4812.	125.
Apr. 12, 1900	56th, 1st	do	Vol. 33, pp. 4109, 4114, 4128.	88, 2 parts.
May 11, 1898	55th, 2d	Cummings, Amos J., New York	Vol. 31, p. 4815.	
July 12, 1892	52d, 1st	De Armond, D. A., Missouri	Vol. 23, p. 6077	
July 19, 1897	53d, 2d	do	Vol. 26, pp. 7724, 7727	
May 11, 1898	55th, 2d	Dockery, A. M., Missouri	Vol. 31, p. 4919	
July 12, 1892	52d, 1st	Henderson, David B., Iowa	Vol. 23, p. 6076	
May 11, 1898	55th, 2d	do	Vol. 31, pp. 4814, 4815	
July 20, 1894	53d, 2d	Hepburn, W. C., Iowa	Vol. 26, p. 7777	
Apr. 12, 1900	56th, 1st	Kluttz, T. F., North Carolina	Vol. 33, pp. 4113, 4117	
July 20, 1894	53d, 2d	McEttrick, Michael J., Massachusetts.	Vol. 26, pp. 7766-7770	
May 11, 1898	55th, 2d	McEwan, T., New Jersey	Vol. 31, pp. 4817-4818	
Do	55th, 2d	Powers, H. H., Vermont	Vol. 31, pp. 4812-4814	
Apr. 12, 1900	56th, 1st	do	Vol. 33, pp. 4112-4114, 4127, 4128.	
Do	56th, 1st	Rucker, W. W., Missouri	Vol. 33, pp. 4109, 4110, 4121.	88, 2 parts.
Do	56th, 1st	Ryan, J. W., Pennsylvania	Vol. 33, pp. 4119-4121	
May 11, 1898	55th, 2d	Shafroth, John F., Colorado	Vol. 31, pp. 4818-4824	
Do	55th, 2d	Simpson, Jerry, Kansas	Vol. 31, pp. 4816, 4817	
Apr. 12, 1900	56th, 1st	Sulzer, Wm., New York	Vol. 33, p. 4121	
May 11, 1898	55th, 2d	Todd, A. M., Michigan	Vol. 31, pp. 4820-4824	
Do	55th, 2d	Tongue, T. H., Oregon	Vol. 31, p. 4819	
Apr. 12, 1900	56th, 1st	Ziegler, Edward D., Pennsylvania	Vol. 33, pp. 4114-4117	
July 12, 1892	52d, 1st	Tucker, H. St. Geo., Virginia	Vol. 23, pp. 6061-6066	368, 2 parts.
July 20, 1894	53d, 2d	do	Vol. 26, Appendix, p. 1134.	944, 2 parts.
Jan. 21, 1902	57th, 1st	Corliss, J. B., Michigan	Vol. 35, p. 850	125.
Feb. 13, 1902	57th, 1st	do	Vol. 35, pp. 1746-1747	

List of principal speeches and reports made in Congress in recent years—Continued.

HOUSE.

[Against the proposed change.]

Date.	Session.	By whom made,	Record, pages.	Report number.
July 20, 1894	53d, 2d....	Bartlett, Franklin, New York.....	Vol. 26, pp. 7773, 7774..	
Do.....	53d, 2d....	Everett, William, Massachusetts...	Vol. 26, pp. 7776, 7777..	
Do.....	53d, 2d....	Grosvenor, Charles H., Ohio	Vol. 26, pp. 7777; Appendix, p. 1352.	
Do.....	53d, 2d....	Northway, Stephen A., Ohio.....	Vol. 26 pp. 7763-7766; 7770.	
Do.....	53d, 2d....	Reed, Thomas B., Maine.....	Vol. 26, p. 7777.....	

DOCUMENTS REPRINTED.

Fifty-second Congress, first session, Senate Mis. Doc. No. 89, by Mr. Morgan.

Fifty-third Congress, special session, Senate, March-April, 1893, Senate Mis. Doc. No. 31, by Mr. Hoar.

Fifty-third Congress, second session, Senate Mis. Doc. No. 97, by Mr. Martin.

Fifty-third Congress, second session, Senate Mis. Doc. No. 104, pages 229-247, "Roger Sherman in the Federal Convention." (Am. Hist. Asso., Report, 1893.)

Fifty-third Congress, third session, Senate Mis. Doc. No. 1, by Mr. Turpie.

Fifty-fourth Congress, second session, Senate Doc. No. 26, "The Senate," by George F. Hoar. (A paper published in the Youth's Companion of November 13, 1890.)

Fifty-seventh Congress, first session, Senate Doc. No. 404, Debates in the Federal vention of 1787, etc., by Mr. Gallinger.

[Senate Mis. Doc. No. 89, Fifty-second Congress, first session. In the Senate of the United States, March 7, 1892, ordered to be printed.]

Mr. Morgan submitted the following resolution:

"*Resolved*, That the Committee on Privileges and Elections is directed to take into consideration the following resolution and report upon the same with all convenient dispatch:

"'*Resolved*, That the vote or other proceedings that constitutes a choice of a Senator of the United States must be had by the legislature of the State in which such Senator is chosen, and until the houses of such legislature have met and organized as legislative bodies they can not choose a Senator of the United States.

"'Second. That the Constitution of the United States requires that the choice of a Senator shall be, when made, the act of the legislature of the State, and not the act of the Senate or of Congress.

"'Third. That, in regulating the time and manner of choosing a Senator, a new electoral body, which is not the legislature, and is not acting by its authority, can not be substituted so as to act in the place and stead of the legislature, and so to deprive the legislature of its power to elect a Senator.

"'Fourth. That, if it is lawful, in regulating the time and manner of electing Senators, to transfer the power to choose a Senator from the two houses, in their organized capacity, to a number of the members of the two houses, such electoral power is secondary to the right of the legislature to choose a Senator, and can only be exercised when the houses of the legislature, or either of them, has made default in considering the subject of choosing such Senator, or having made an effort, has failed to make, or to proceed to make, such choice.

"'Fifth. That in the case of the claim of Honorable Fred T. Dubois, the members of the legislature of Idaho, who, on the eighteenth day of December, eighteen hundred and ninety, voted for Honorable Fred T. Dubois, sat in their respective houses on Tuesday, the sixteenth day of December, eighteen hundred and ninety, a quorum being present in each house, and voted for two Senators from Idaho, who were, on subsequent days, chosen as such, and failed to take any action upon the question of electing a third Senator to the seat now occupied by Honorable Fred T. Dubois, they can not claim or exert the power to choose such Senator in default of action on that subject, which was the result of their own delinquency in public duty.'"

[Senate Mis. Doc. No. 81, Fifty-third Congress, special session. In the Senate of the United States. April 3, 1893, laid on the table and ordered to be printed.]

Mr. Hoar submitted the following resolution:

"*Resolved*, That it is inexpedient that the resolution sent to the Senate by the House of Representatives during the last Congress providing for an amendment of the Constitution securing the election of Senators by the people of the several States be adopted;

"Such a method of election would essentially change the character of the Senate, as conceived by the convention that framed the Constitution, and the people who adopted it;

"It would transfer, practically, the selection of the members of this body from the legislatures, who are intrusted with all legislative powers of the States, to bodies having no other responsibilities, whose election can not be regulated by law, whose members act by proxy, whose tenure of office is for a single day, whose votes and proceedings are not recorded, who act under no personal responsibility, whose mistakes, ordinarily, can only be corrected by the choice of Senators who do not represent the opinions concerning public measures and policies of the people who choose them;

"It requires the substitution of pluralities for majorities in the election;

"It will transfer the seat of political power in great States, now distributed evenly over their territory, to the great cities and masses of population;

"It will create new temptation to fraud, corruption, and other illegal practices, and, in close cases, will give rise to numerous election contests, which must tend seriously to weaken the confidence of the people in the Senate;

"It will absolve the larger States from the constitutional obligation which secures the equal representation of all the States in the Senate by providing that no State shall be deprived of that equality without its consent;

"It implies what the whole current of our history shows to be untrue, that the Senate has during the past century failed to meet the just expectations of the people, and that the State legislatures have proved themselves unfit to be the depositaries of the power of electing Senators;

"The reasons which require this change, if acted upon and carried to their logical result, will lead to the election by the direct popular

vote, and by popular majorities, of the President and of the Judiciary, and will compel the placing of these elections under complete national control;

"It will result in the overthrow of the whole scheme of the Senate and, in the end, of the whole scheme of the National Constitution as designed and established by the framers of the Constitution and the people who adopted it."

[Senate Mis. Doc. No. 97, Fifty-third Congress, second session. In the Senate of the United States. February 22, 1894, ordered to lie on the table and be printed.]

Mr. Martin submitted the following resolution: Providing for amendments to the Constitution regulating the election of President and Vice-President of the United States, and the election of United States Senators, by a direct vote of the people.

"Whereas the peace, safety, and permanence of a truly democratic-republican form of government demand that all Federal officers shall be elected by a direct and immediate vote of the constituency intended to be represented, so that every public officer shall at all times be made to feel and realize that he is directly answerable for his conduct to an immediate constituency, and that thereby corrupt and dangerous methods in the conduct of all elections and in the transaction of public affairs may be reduced to a minimum; and

"Whereas the matter of the election of President and Vice-President of the United States by a direct vote of the whole people, and the election of Senators from the several States by a direct vote of the people thereof severally, has for many years challenged the serious and favorable consideration of a very large portion of the people of the United States of all political parties: Therefore, be it

"*Resolved*, That the Senate Committee on the Judiciary be, and hereby is, instructed to formulate and report to the Senate at the earliest possible day such joint resolution or resolutions as may be proper, proposing to the several States of the Union amendments to the Constitution providing for the election of President and Vice-President of the United States by a direct vote of all the people thereof, and for a single term of six years, the President of the United States to be thereafter ineligible to an election for a second term, as well as providing for the election of Senators by a direct vote of the people of the several States, respectively."

[Senate Mis. Doc. No. 104, Fifty-third Congress, second session, pages 229-247.]

ROGER SHERMAN IN THE FEDERAL CONVENTION.

[By LEWIS HENRY BOUTELL, LL. D., of Chicago.]

The convention which framed our national constitution was about equally divided between the advocates of a national and the advocates of a confederate government. The great battle between these parties was fought over the question of representation in the national legislature. The details of that struggle and the compromise in which it ended have an unfailing interest for the student of political history. They have a fresh interest, at the present time, from the attempt

recently made in Congress to change the method of electing Senators, and from certain misstatements made in a recent biographical work as to the authorship of that compromise.

The misstatements to which I refer are found in Dr. Stillé's very interesting life of John Dickinson. Dr. Stillé claims for Mr. Dickinson the honor of introducing and securing the adoption in the Federal Convention of 1787 of the provision giving the States an equal representation in the Senate. In proof of this claim, Dr. Stillé states that the convention "decided unanimously, on the 7th of June, on the motion of Mr. Dickinson, that the members of that body [the Senate] should be chosen, two for each State, by its legislature."

An examination of Madison's report of the Debates in the Federal Convention shows that every part of this statement is incorrect. Mr. Dickinson did not make the motion attributed to him, on the 7th of June or at any other time. The motion made by Mr. Dickinson on the 7th of June related simply to the manner in which Senators should be chosen, and had no reference whatever to the number of Senators from each State.

Mr. Dickinson's motion was "that the members of the second branch [the Senate] ought to be chosen by the individual legislatures." He said he "had two reasons for this motion," first, because the sense of the States would be better collected through their governments than immediately from the people at large; secondly, because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the State legislatures than in any other mode. In reply to Mr. Pinckney's objection that "if the small States should be allowed one Senator only the number will be too great, there will be eighty at least," Mr. Dickinson said the greatness of the number was no objection with him. He hoped there would be eighty and twice eighty of them. If their number should be small, the popular branch could not be balanced by them. The legislature of a numerous people ought to be a numerous body.

The proposition to give the States an equal vote in the Senate was not made till June 11, and then it was made, not by Mr. Dickinson, but by Roger Sherman. It was at first voted down, and not until after a long and severe controversy was the proposition adopted. It was adopted at last, by a vote of 5 to 4, on the 16th of July. The number of Senators from each State was fixed at two on the 23d of July, and at the same time it was decided that the Senators should vote per capita.

In the debate on this subject Mr. Dickinson took no part. On every occasion, from first to last, Mr. Sherman was the champion of the equal representation of the States in the Senate. The only occasion on which Mr. Dickinson spoke on this subject in the convention was on June 2, when, the executive being under discussion, he incidentally remarked, as to the point of representation in the National Legislature, as it might affect States of different sizes, that it must probably end in mutual concession. He hoped that each State would retain an equal voice, at least in one branch of the National Legislature. But two days before this, on the 31st of May, when the method of choosing Senators was under discussion, Mr. Sherman favored an election of one member by each of the State legislatures.

The position taken by Mr. Sherman on this subject was not a new one with him. Eleven years before, as a member of the Continental Congress, he advocated a representation in Congress of both population and States. On the 12th of July, 1776, Mr. Dickinson, on behalf of the Committee on Articles of Confederation, reported a plan in which it was provided that "in determining questions each colony shall have one vote." This clause being under debate, on August 1, 1776, it was strongly opposed by Benjamin Franklin, John Adams, and others, as unjust to the larger States. Representation, they insisted, should be in proportion to taxation. As a compromise of the conflicting claims of the large and small States, Roger Sherman proposed that there should be a representation both of States and of population. His position is thus stated in the account of the debates in John Adams's diary (2 Adams's Works, 499):

> Sherman thinks we ought not to vote according to numbers. We are representatives of States, not individuals. States of Holland. The consent of every one is necessary. Three colonies would govern the whole, but would not have a majority of strength to carry their votes into execution. The vote should be taken two ways; call the colonies and call the individuals, and have a majority of both.

Here we have, in substance, the great compromise of the Constitution between the large and the small States. This was the first expression of this plan, and the merit of originating it belongs to Roger Sherman. As Mr. Sherman in the Federal Convention represented a State intermediate in population between the largest and the smallest States, he stood in a position to be influential with both. Although he and his associates from Connecticut were disposed to preserve to the States as much of their sovereignty as possible, he was always amenable to reason, and was fruitful in resources to harmonize conflicting views. This can not be better illustrated than by a review of the debates in the Federal Convention on representation in the National Legislature.

The debates in the Federal Convention divide themselves into three distinct periods:

First. The debates in the Committee of the Whole on the state of the Union, which extended from May 30 to June 19.

From May 30 to June 13 the committee had under consideration the fifteen resolutions of Randolph, containing the leading principles which he thought should prevail in a National Constitution.

On June 13 the committee reported in favor of the Randolph resolutions as they had been amended in debate. This may be called the national plan.

On June 15 Mr. Patterson presented the resolutions known as the New Jersey or confederate plan. This plan was referred to the Committee of the Whole and the national plan recommitted. These plans were debated till June 19, when the committee voted to rise and report in favor of the national plan.

Second. The second period consisted of the debates in the convention on the national plan, which extended from June 19 to July 26, when a committee of detail of five members was appointed to prepare and report a Constitution conformable to the twenty-three resolutions adopted by the convention.

Third. The debates in the convention on the detailed plan, which extended from August 6 to September 16, when the Constitution was adopted. On September 17 a few changes were made, the Constitution signed, and the convention adjourned.

In the first period, which lasted only twenty days, the debates were brief and comparatively calm.

In the second period, which lasted thirty-seven days, the great struggle between the national and confederate parties took place, which ended in the adoption of the compromise plan.

In the third period, which lasted forty-two days, the debate on details, which exhibited great diversity of opinion, was conducted without asperity. The slavery question excited a momentary feeling, but was soon disposed of.

I have spoken of the members of the convention as divided into two opposite parties—those who favored a strong and those who favored a weak general government, or, as we may for convenience call them, nationalists and confederates. But these parties were not organized like modern political parties. They did not vote solidly according to a scheme prearranged by a caucus. Indeed, they had no organization at all. More independent men never met together. Each man spoke and voted according to his individual convictions. Those who agreed on one point were often at variance on others equally important. There were all shades of nationalists and all shades of confederates, and some were partly the one and partly the other.

The leaders of the nationalists were Hamilton, Madison, Wilson, and Gouverneur Morris. The leaders of the confederates were Patterson, Lansing, and Luther Martin. Those most active in affecting compromises between the contending parties were Sherman, Franklin, Dickinson, and Gerry.

The point on which there was the bitterest and most prolonged controversy was, as I have stated, the rule of suffrage in the legislature. The resolution on this subject was the second on Mr. Randolph's list. But when it was reached, at the request of Mr. Read, of Delaware, the consideration of it was postponed, "as the deputies from Delaware were restrained by their commission from assenting to any change in the rule of suffrage, and in case such a change should be fixed on it might become their duty to retire from the convention."

Accordingly the second resolution was not taken up till the other resolutions had been acted upon. This second resolution provided "that the rights of suffrage in the national legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases." On the 9th of June the debate on the second resolution began. Mr. Briarly and Mr. Patterson, of New Jersey, spoke in opposition and Mr. Wilson in favor of it. On June 11 the debate was resumed.

Mr. Sherman proposed that the proportion of suffrage in the first branch (the House of Representatives) should be according to the respective numbers of free inhabitants; and that in the second branch, or Senate, each State should have one vote and no more. He said, as the States would remain possessed of certain individual rights, each State ought to be able to protect itself; otherwise a few large States will rule the rest. The House of Lords in England, he observed, had certain particular rights under the Constitution, and hence they have an equal vote with the House of Commons that they may be able to defend their rights.

This was the first presentation of that plan of compromise by which the conflicting claims of the large and the small States were finally adjusted. It was modified in some of its details, as we shall hereafter

see, but the compromise, as finally adopted, was, in substance, representation according to population in the House of Representatives, and equal representation of the States in the Senate. Roger Sherman was thus the first to propose this important compromise, and his merit consists in this, that while the advocates of a strong general government were in favor of a representation in both houses of the legislature based on population, and the advocates of a weak general government were in favor of an equal representation of the States in both houses, Sherman, though sympathizing with the latter class, saw, at this early day, that it would be impossible to form a general government unless each side yielded a portion of its claims. The national principle must prevail in one house and the confederate principle in the other. To Roger Sherman belongs the credit, not only of introducing this compromise in the convention, but also of bearing the brunt of the contest in its favor, through a long and severe struggle, till it was finally adopted.

After a brief discussion, it was decided by a vote of 9 to 2 that representation in the House should be in proportion to the whole number of free inhabitants and three-fifths of the slaves. New Jersey and Delaware were the only States voting in the negative.

Mr. Sherman then moved that a question be taken whether each State shall have one vote in the second branch. Everything, he said, depended on this. The smaller States would never agree to the plan on any other principle than an equality of suffrage in this branch. Mr. Ellsworth seconded the motion, and the vote was 5 yeas to 6 nays.

Mr. Wilson then moved that the right of suffrage in the Senate ought to be according to the same rule as in the first branch. On this motion the vote was 6 yeas to 5 nays.

In the resolutions reported to the convention by the committee of the whole, the national principle prevailed, except in the provision for electing the Senators by the State legislatures. The debate on those resolutions began June 20, and then the advocates of the confederate plan returned to the contest with renewed vigor. In the committee of the whole the resolution in favor of two houses of the legislature was adopted without debate. But when that resolution came up in the convention, Lansing, Luther Martin, Sherman, and W. S. Johnson made elaborate speeches against it. The keynote of the opposition to a legislature of two houses was struck in the opening remark of Mr. Lansing, "that the true question here was whether the convention would adhere to or depart from the foundation of the present confederacy."

Mr. Sherman, in his speech, said that "he admitted two branches to be necessary in the State legislatures, but saw no necessity in a confederacy of States." He closed his speech with the following remarks:

> If the difficulty on the subject of representation can not be otherwise got over, I would agree to have two branches, and a proportional representation in one of them, provided each State had an equal voice in the other. This was necessary to secure the rights of the lesser States, otherwise three or four of the large States would rule the others as they pleased. Each State, like each individual, had its peculiar habits, usages, and manners, which constituted its happiness. It would not, therefore, give to others a power over this happiness, any more than an individual would do, when he could avoid it.

Mr. Mason, Mr. Wilson, and Mr. Madison very ably supported the resolution; and the vote stood, yeas 7, nays 3. Maryland divided. The vote of Connecticut was in the affirmative.

The debate on the rules of suffrage in the two branches began on June 27 and was continued till July 16, when the compromise plan was adopted by a vote of 5 to 4. When the debate had lasted two days, and the prospect of harmonious action seemed to be diminishing rather than increasing, Dr. Franklin moved that the convention be opened each day with prayer. This motion was seconded by Mr. Sherman. It did not come to a vote, apparently from fear that it might excite alarm among the people.

On the 29th of June it was decided by a vote of 6 to 4 that the rule of suffrage in the first branch (the House of Representatives) ought not to be according to that established by the Articles of Confederation. Connecticut, New York, New Jersey, Delaware voted in the negative, and Maryland was divided.

After this vote was taken, Mr. Ellsworth moved that the rule of suffrage in the second branch (the Senate) be the same with that established by the Articles of Confederation. Mr. Baldwin, of Georgia, "thought the second branch ought to be the representation of property, and that in forming it, therefore, some reference ought to be had to the relative wealth of their constituents, and to the principles on which the senate of Massachusetts was constituted."

The debate on Mr. Ellsworth's motion was resumed on the 30th of June. In the course of this debate, Mr. Madison said that the difference in interest between the States depended not upon their size, but upon their being slave-holding or nonslave-holding States. The remedy for this difference which had occurred to him was that instead of proportioning the votes of the States, in both branches, to their respective number, of inhabitants, computing the slaves in the ratio of 5 to 3, they should be represented in one branch according to the number of free inhabitants only; and in the other, according to the whole number, counting the slaves as free. By this arrangement the Southern scale (States) would have the advantage in one house and the Northern in the other.

Mr. Wilson proposed one Senator for every 100,000 souls; the States not having that number to be allowed one.

Dr. Franklin proposed an equal number of Senators from each State; that in all questions touching the sovereignty of the States, or whereby the authority of the States over their own citizens may be diminished, or the authority of the General Government within the States increased, and in the appointment of civil officers, each State should have equal suffrage; that in money bills the delegates of the several States shall have suffrage in proportion to the contribution of their States to the Treasury. The debate on this day was very heated, Mr. Bedford, of Delaware, stating that the small States, rather than agree to the national plan, would prefer a foreign alliance.

On July 2 the vote on Mr. Ellsworth's motion was taken, and it was lost by an equal division, 5 to 5. Connecticut, New York, New Jersey, Delaware, Maryland, aye; Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, nay; Georgia, divided.

Mr. C. Pinckney proposed that the representation of the States in the Senate should vary according to population, but that the larger States should not have their full proportion.

Gen. C. C. Pinckney proposed a committee of one from each State to report a plan of compromise. This seemed to be felt by most to be a necessity.

Mr. Randolph said he would agree that, in the choice of an Executive, each State should have an equal vote. Vote for the committee: yeas, 9; nays, 2.

On July 5 the committee of 11 reported two propositions:

1. That in the House of Representatives there be one representative for every 40,000 inhabitants; each State to have at least one; all money bills to originate in the House, and not be amended in the Senate; no money to be drawn from the Treasury but in pursuance of appropriations originated in the House.

2. In the Senate each State to have an equal vote.

Mr. Madison in a note (5 Elliot, 274) says that this compromise was proposed by Dr. Franklin; that Mr. Sherman, who took the place of Mr. Ellsworth, proposed that each State should have an equal vote in the Senate, provided that no decision thereon should prevail unless the majority of States concurring should also comprise a majority of the inhabitants of the United States, but it was not much deliberated on or approved in the committee. Mr. Madison says a similar provision was proposed in the debates on the Articles of Confederation. I can find no confirmation of this last statement. Probably Mr. Madison had in mind the proposition reported by Mr. Adams, to which reference has been made.

The debate which followed on this day and the next related principally to the question whether the giving to the House the sole right to originate money bills was really any concession to the large States. It was finally voted, 5 to 3, that the clause relating to money bills should stand as a part of the report.

On July 7 the question was taken up, Shall the clause allowing each State one vote in the second branch (the Senate) stand as a part of the report?

Mr. Sherman supposed it was the wish of every one that some general government should be established. An equal vote in the second branch would, he thought, be most likely to give it the necessary vigor. "The small States have more vigor in their government than the large ones; the more influence, therefore, the large ones have the weaker will be the government. In the large States it will be most difficult to collect the real and fair sense of the people; fallacy and undue influence will be practiced with the most success, and improper men will most easily get into office. If they vote by States in the second branch, and each State has an equal vote, there must be always a majority of States as well as a majority of the people on the side of public measures, and the Government will have decision and efficacy. If this be not the case in the second branch there may be a majority of States against public measures, and the difficulty of compelling them to abide by the public determination will render the Government feebler than it has ever yet been." The vote on this question stood, yeas 6, nays 3. Pennsylvania, Virginia, South Carolina, nay; Massachusetts and Georgia, divided.

From the 9th to the 14th of July the debate was on a variety of questions growing out of the provision relating to the number of members in the House of Representatives, such as slave representation, census, and representation of new States.

On the 14th of July, Mr. Rutledge proposed to reconsider the two propositions touching the originating of money bills in the first, and the equality of votes in the second branch.

Mr. Gerry favored the reconsideration, with a view, not of destroying the equality of votes, but of providing that the States should vote per capita, which, he said, would prevent the delays and inconveniences that had been experienced in Congress, and would give a national aspect and spirit to the management of business.

This proposition of Mr. Gerry's that the Senators vote per capita, though not acted upon at this time, was renewed by Gouverneur Morris and Mr. King on July 23, and was then adopted. This was the last step in this controversy and one of the most important. It must have seemed to the Nationalists a much greater concession than the giving to the House of Representatives the exclusive right to originate money bills. It removed from the proceedings of the Senate all appearances of State action, and, as Mr. Gerry said, it gave a national aspect and spirit to the management of business. Only the extreme State rights men, like Luther Martin, opposed it, and on the final vote Maryland was the only State voting in the negative. For this suggestion Mr. Gerry is entitled to no small share of credit.

The reconsideration proposed by Mr. Rutledge having been agreed to, Mr. Pinckney moved that, instead of an equality of votes, the States should be represented in the Senate as follows: New Hampshire, 2; Massachusetts, 4; Rhode Island, 1; Connecticut, 3; New York, 3; New Jersey, 2; Pennsylvania, 4; Delaware, 1; Maryland, 3; Virginia, 5; North Carolina, 2; South Carolina, 3; Georgia, 2. Total, 36. This motion was seconded by Mr. Wilson.

Mr. Sherman urged the equality of votes, not so much as a security for the small States, as for the State governments, which could not be preserved unless they were represented and had a negative in the General Government. He had no objection to the members in the second branch voting per capita, as had been suggested by Mr. Gerry.

Strong speeches were made by King, Madison, and Wilson, against giving to the States an equality of votes in the Senate. Vote on Mr. Pinckney's motion: Yeas, 4; nays, 6.

On the 16th of July the vote was taken on the whole report as amended, including equality of votes in the Senate, and resulted in 5 yeas and 4 nays. Massachusetts divided.

On July 23, Gouverneur Morris and Mr. King moved that the Senators vote per capita. Mr. Ellsworth said he had always approved of voting in that mode. It was agreed to that the number of Senators be two from each State.

Mr. L. Martin was opposed to voting per capita, as departing from the idea of the States being represented in the second branch. Mr. Carroll was not struck with any particular objection against the mode; but he did not wish so hastily to make so material an innovation.

The vote on the whole motion, viz, "The second branch to consist of two members from each State, and to vote per capita," was, yeas, 9; nay, 1 (Maryland).

From this review of the proceedings in the Federal convention on the rule of suffrage in the two Houses of the National Legislature, we perceive:

(1) That the first motion that the States have an equal vote in the Senate was made in the Committee of the Whole, on June 9, by Roger Sherman, and was seconded by Oliver Ellsworth, and that this motion was negatived by a vote of 5 yeas to 6 nays.

(2) That immediately after this vote was taken, James Wilson moved that the right of suffrage in the Senate be the same as in the House of Representatives (that is, according to population), and that this motion prevailed by a vote of 6 yeas to 5 nays.

(3) That on June 13 the national plan was reported by the Committee of the Whole, which provided that the rule of suffrage, in both Houses, should be according to population.

(4) That in the debate in the convention, on this national plan, on June 29, Oliver Ellsworth moved that the rule of suffrage in the Senate be the same with that established by the Articles of Confederation. After a long debate, the vote was taken on this motion on July 2, and resulted in an equal division of the convention, 5 yeas and 5 nays, and Georgia divided.

(5) That to break this deadlock, a committee of eleven, one from each State, was appointed to see if they could not agree on a compromise plan.

On July 5 the committee of eleven reported a plan, which was, in substance, that in the House of Representatives representation be according to population; that money bills originate in the House, which shall not be altered or amended in the Senate; and that in the Senate each State shall have an equal vote. After a long debate and various amendments, which only affected the representation in the House of Representatives, the compromise plan, giving the States an equal vote in the Senate, was, on July 16, adopted by a vote of 5 yeas to 4 nays, Massachusetts being divided.

(6) That the final action on this subject was taken on the 23d of July, when it was decided, by a vote of 9 yeas to 1 nay, that there be two Senators from each State, and that they vote per capita.

Beside the three main plans for representation in the two Houses, which I have called the national, the confederate, and the compromise plans; by the first of which, representation in both Houses was to be according to population; by the second, the States were to have an equal vote in both Houses; by the third, the States were to be represented according to population in the House, and to be equally represented in the Senate; besides these three main plans, a variety of other plans were suggested in the course of debate. They were, as we have seen, the plans of Mr. Baldwin, of Mr. Madison, of Mr. Wilson, of Dr. Franklin, of Mr. C. Pinckney, and of Mr. Sherman, in the committee of eleven.

This plan of a double representation in our National Legislature, of population in one House and of States in the other, has generally been spoken of as a master stroke of statesmanship. We have seen that it was simply the result of a compromise. It originated in a groundless fear that the larger States would combine to oppress the smaller ones. It was in vain that Madison, and Wilson, and Hamilton pointed out that States would be led to act together, not from similarity in size, but from unity in interest, and that there was no such unity of interest in what were then the large States (Massachusetts, Pennsylvania, and Virginia) as to lead them to oppress the smaller States. As we read the debates we can not help feeling that a man of such strong sense as Roger Sherman must have felt the force of these arguments. That he did so seems apparent from the fact that toward the close of the debate he defended the equal representation of the States in the Senate on the

ground that it was necessary to preserve the rights, not of the small States against the large States, but of all the States against the General Government.

Experience has shown that there never was the slightest danger that the large States would combine to oppress the small ones; and that there was more danger to the National Government from the State governments than to the State governments from the National Government. But while these fears of the early advocates of State rights were groundless, Sherman and his associates were doubtless right in their belief that the majority of the people were in favor of an amendment of the Articles of Confederation rather than of a purely National Government, and that there was danger that they would reject a constitution which did not give to the States an equal representation in at least one House of the National Legislature. And so they insisted on a compromise which gave us not an ideally perfect National Government, but the best perhaps which the people were willing to bear.

Madison and his associates were right in pointing out that the danger to the nation was from the State-rights sentiment rather than from the national sentiment. Accordingly we find that the first mutterings of discontent were in the Kentucky nullification resolutions and in the Hartford Convention. Disloyalty took a more serious form, in Jackson's time, in the nullification proceedings in South Carolina. It culminated, in our own day, in secession and civil war.

The constitution of the Senate as the representative of the States did not produce the good anticipated, as the large States were never hostile to the small States, and the negative of the Senate was never invoked to guard the States against injurious legislation by the House of Representatives. Neither did it produce the evil feared, as the action of the Senate was never antinational. It did, however, produce what the advocates of a strong national government most desired, a small body of picked men, whose intelligence, character, and length of service have made them a fit check on the popular branch of the legislature, and a safe depository of the treaty-making power. We never think of the Senate as the guardian of State rights, but as the noblest embodiment of the legislative wisdom of the nation.

Throughout the debates in the convention, Roger Sherman showed himself in favor of amending the Articles of Confederation rather than of forming a strong national government. He expressed himself to this effect on the first day he took his seat in the convention. Luther Martin said in his report to the Maryland legislature that the members of the convention who prepared the resolutions for amending the Articles of Confederation, presented by Patterson, were principally of the Connecticut, New York, New Jersey, Delaware, and Maryland delegations.

Sherman favored the election of both Representatives and Senators by the State legislatures rather than by the people, though he finally acquiesced in the election of Representatives by the people. He thought the President should be elected by the National Legislature and should be absolutely dependent on it and removable by it at pleasure. He thought Representatives and Senators should be paid by the State and not by the National Legislature, but finally proposed that they be paid $5 a day out of the National Treasury, and that any further emoluments be added by the States.

He thought the judges should be removed by the President, on the

application of the Senate and the House. He opposed inferior courts as a needless expense, as the State courts would answer the same purpose. Finally, he was willing the legislature should create them, but wished the State courts to be used when it could be done with safety to the general interest. He, however, expressed more confidence in the national judiciary than some did, and believed it a better tribunal for determing controversies between the States than the old method under the Confederation.

He favored the ratification of the Constitution by the State legislatures rather than by conventions of the people. To the clause relating to amendments, he moved to add that "no amendments shall be binding unless consented to by the several States." On the last day of debate he moved a proviso to the article on amendments, "that no State shall, without its consent, be affected in its internal police, or deprived of its equal suffrage in the Senate." The part relating to equal suffrage in the Senate was adopted.

In the plan for choosing a President by electors, it was provided that in case of a failure to choose, the Senate should choose a President out of the five highest candidates. It was thought this would strengthen the aristocratic influence of the Senate too much; so it was proposed that the choice should be by the legislature. Mr. Sherman then suggested that in that case the vote should be by States—"in favor of the small States, as the large States would have so great an advantage in nominating the candidates." Finally he suggested the plan which was adopted, of a vote by the House of Representatives, the members from each State having one vote.

When the proposition for the election of Representatives by the people was first under discussion (May 31) Mr. Sherman opposed election by the people, insisting that it ought to be by the State legislatures. "The people," he said, "immediately should have as little to do as may be about the government. They want information, and are constantly liable to be misled."

When this matter was brought up the second time (June 6) Mr. Sherman said:

> If it were in view to abolish the State governments the elections ought to be by the people. If the State governments are to be continued it is necessary, in order to preserve harmony between the National and State governments, that the elections to the former should be made by the latter. The right of participating in the National Government would be sufficiently secured to the people by their election of the State legislatures.

When the clause that the President should be chosen by the National Legislature was under discussion (July 17) Mr. Sherman thought that the sense of the nation would be better expressed by the legislature than by the people at large. "The latter will never be sufficiently informed of characters, and besides will never give a majority of votes to any one man. They will generally vote for some man in their own State, and the largest State will have the best chance for the appointment. If the choice be made by the legislature, a majority of voices may be made necessary to constitute an election."

In the speech above referred to, made on June 6, Mr. Sherman took a very limited view of the powers of the General Government. "The objects of the Union," he thought, "were few—first, defense against foreign danger; secondly, against internal disputes and a resort to force; thirdly, treaties with foreign nations; fourthly, regulating for-

eign commerce and deriving revenue from it. These, and perhaps a few lesser objects, alone rendered a confederation of the States necessary. All other matters, civil and criminal, would be much better in the hands of the States. The people are more happy in small than in large States. States may, indeed, be too small, as Rhode Island, and thereby be too subject to faction. Some others were, perhaps, too large, the powers of government not being able to pervade them." He was for giving the General Government power to legislate and execute within a definite province.

He was opposed to the appointment by the General Government of general officers of the militia. He was opposed to a tax on exports.

In view of the part which slavery has played in our national history, it strikes one as strange, at first, that it should have played so small a part in the Federal Convention. But at that time slavery was not confined to the Southern States and antislavery sentiments were not confined to the Northern States. Gouverneur Morris made a speech denouncing slavery which would have done credit to Wendell Phillips. But he was ably supported by Mason and Madison. Georgia and South Carolina were the only States that upheld it. Some years before Virginia had abolished the slave trade. It was natural, therefore, that the members of the convention should suppose that in a few years slavery would come to an end in most, if not all, the States. Mr. Ellsworth undoubtedly expressed the general belief when he said, "Slavery, in time, will not be a speck in our country."

The view which Mr. Sherman took of the matter was thus expressed by him: He disapproved of the slave trade; yet, as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, and as it was expedient to have as few objections as possible to the proposed scheme of government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the United States, and that the good sense of the several States would probably by degrees complete it. He urged on the convention the necessity of dispatching its business.

One of the most surprising things in these debates is the hostility shown by some of the members to new States, and the absurd attempt to restrict their representation in the National Legislature. That so clear-headed and farsighted a man as Gouverneur Morris should have committed such a blunder is a most striking illustration of the proverb that "great men are not always wise."

This hostility found its formal expression in the motion made by Mr. Gerry, on the 14th of July, "that in order to secure the liberties of the States already confederated, the number of representatives in the first branch of the States which shall hereafter be established shall never exceed in number the representatives from such of the States as shall accede to this confederation."

Mr. Sherman made the only speech in opposition to this motion. He thought there was no probability that the number of future States would exceed that of the existing States. "If the event should ever happen, it is too remote to be taken into consideration at this time. Besides, we are providing for our posterity, for our children and our grandchildren, who would be as likely to be citizens of new Western States as of the old States. On this consideration alone we ought to make no such discrimination as is proposed by the motion."

And yet four States—Massachusetts, Connecticut, Delaware, and Maryland—voted in favor of Mr. Gerry's motion; Pennsylvania was divided, and only five States voted against the motion.

If we were to judge of the members of the Federal Convention by their mistakes and erroneous opinions, we should not form the highest estimate of their ability. But, judging them as men should always be judged—by their best work—they are deserving of the rare honor which belongs to the founders of empires. It is no detraction from that honor that they builded better than they knew. Judged by this test, Roger Sherman will ever be conspicuous as the statesman to whose wise and conciliatory spirit it was largely due that the Federal Convention was not held in vain.

[Senate Mis. Doc. No. 1, Fifty-third Congress, third session. In the Senate of the United States. December 3, 1894, laid on the table and ordered to be printed.]

Mr. Turpie presented the following resolution:

"*Resolved*, That in the opinion of the Senate the time has come in the history of the country when one branch of the Government, the legislative department, should be placed more directly under the control of the people of the several States; that the choice of the members of the senate branch in the legislature of the States by the direct vote of the people has for a very long time now obtained with the best results, civil and political; that likeness is the basis of agreement and of unity; that political analogy justly followed should conform the method of choosing Senators, as to the element of electors, to that so long prevailing in the States of the Union; that the present method of choosing United States Senators tends to mar and mutilate the system of popular representative government; that the choice of them by the direct vote of the whole body of electors in a State would be more in consonance with our scheme of government, more conducive to the dignity and sovereignty of the States, and to the influence and authority of this body."

[Senate Doc. No. 26, Fifty-fourth Congress, second session.]

THE SENATE, BY SENATOR GEORGE F. HOAR.

[A paper published in the Youth's Companion of November 13, 1890.]

The word "Senate" comes from the Latin word *senex*. It meant, at first, an assembly of old men. People used to believe that only old men were fit to make laws. This is shown by the titles of the chief lawmaking assemblies of different countries, some of which are still in use. The Latin *senatus* or *patres conscripti* (conscript fathers), the Greek *gerousia* (from *geron*, old man), the Saxon *alderman* or *elderman*, the French *seigneur*, preserve the traces of this early usage.

In some cases where the name is kept, mature age is no longer required for the office. The Constitution of the United States provides that "No person shall be a Senator who shall not have attained to the age of 30 years and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen."

But the State legislatures, in the appointment of Senators, have adhered much more closely to the theory from which the body derives its name than the Constitution itself requires. The average age of the persons who now compose the Senate is 60 years. It has but eight members who are less than 50 years old and not one less than 45.

The Government established by the Constitution of the United States differs from those of other countries in many things, but especially in five essential particulars:

First. There is a large domain from which government is altogether excluded. Wherever in America the people have created a State or nation, they have said to it, "Thus far shalt thou come, and no farther. There are some things which, under no circumstances, shall any government be permitted to do."

Second. The powers of sovereignty are divided between the nation and the States. The nation exercises those sovereign powers which affect our dealings with other countries, including the powers of war, peace, treaties, and the regulation of foreign commerce; those which affect the dealings of the people of the different States with each other, including the establishment of post-offices, a bankruptcy system, currency, and the government of the Territories, which are the common property of all the people.

To the National Government is committed also the duty of guaranty to each State of a republican form of government, and preventing the State from infringing the new constitutional provisions which secure personal freedom, equality before the law, equality of political power, to all men born or naturalized within the United States.

For all purposes of commerce and foreign intercourse we are a Republic, a unit, speaking with one voice; for all purposes of domestic government we are forty-four republics, various, diverse, each free to seek its own welfare, to make its own laws, to regulate its own institutions in its own way, only by an irresistible central power prohibited from doing wrong and constrained to do right in those things which are essential to republican liberty.

Third. These forces of State and nation are kept by the authority of the Supreme Court from exceeding their appointed bounds, either by invading each other's province or by entering the domain which the Constitution prohibits to the lawmaking power.

The Supreme Court can pronounce null and void any statute which violates the Constitution, whether passed by Congress or by a State legislature. The mandates or prohibitions of this august tribunal must be obeyed by every executive officer.

Fourth. In the National Government itself the character of a nation composed of the whole people of the United States and that of a confederacy of distinct States are inextricably blended.

The Executive is chosen by electoral colleges in which each State, in addition to a number of electors proportioned to its population, is entitled to two, corresponding to the number of its Senators. The manner of choosing electors is determined by the States. If these colleges fail to elect, the choice is made by the House of Representatives by an election in which every State has an equal vote.

One of the two Houses of the National Legislature is chosen by direct vote of the people in districts of equal population. The other is chosen by the State legislatures, each State being entitled to an equal number.

This conception, Dr. Lieber thinks, "is the chief American contribution to the common treasures of political civilization. It is that by which America will influence other parts of the world more than by any other political institution or principle."

Fifth. The fifth essential peculiarity of the Government of the United States, perhaps the most essential of all, is that with which we are now to deal, the constitution of the Senate.

The men who framed the Constitution had studied thoroughly all former attempts at republican government. History was strewn with the wrecks of unsuccessful democracies. Sometimes the usurpation of the executive power, sometimes the fickleness and unbridled license of the people, had brought popular governments to destruction. To guard against these two dangers they placed their chief hope in the Senate.

In the first place they made it a perpetual body. The President lays down his office at the end of four years. If any obstacle prevent the election or induction of his successor, the executive power itself is in abeyance. The House of Representatives has but a short life. A new one must be organized every two years, and a large part of its term is often consumed in the process of organization.

But the Senate is indestructible. The Senate which was organized in 1789 at the inauguration of the Government abides and will continue to abide, one and the same body, until the Republic itself shall be overthrown or until time shall be no more.

The individual Senator has a fixed term of six years. One-third of the body go out of office every two years. But the body remains in sufficient numbers to pass upon the title of new claimants to their seats and empowered to perform all its constitutional functions. The term of office of the Senator is six years, longer than that of any other officer under the Constitution, save only the judges, who are appointed to hold office for life.

The Senate also, alone of all the departments of Government, is unchangeable and indestructible by any constitutional process. In any other respect the Constitution may be changed, if both Houses of Congress, by a two-thirds vote, or a convention asked for by two-thirds of the States, propose them and three-fourth of the States ratify them; but no State, without its consent, can be deprived of its equal vote in the Senate.

While the members of the other House are elected by a direct popular vote, and under the established practice the electors of the President and Vice-President are chosen by a direct popular vote to perform a function in which they exercise no discretion, but merely execute the will of the bodies by whom they were nominated, the Senator is appointed, or, as we usually say in referring to the process, elected, by the legislature of the State.

This method of choice, by persons who themselves are chosen men, of weight in the community, and also hold an important public office, discharging in the public view a duty for which they are responsible to their constituents, secures care, deliberation, and discretion in the selection. It also preserves the equal power of the States in national legislation, since no law can pass which is not approved both by a majority of the representatives of the people and by a majority of the representatives of the States.

The great advantage of two branches of a legislature is secured not

only by having all laws passed upon by two houses, but by having those two houses represent different constituents and interests.

The Senate also differs from the House of Representatives, and I believe from all other legislative bodies in this country, in that the "previous question" and every other device for putting an end to debate, except that of unanimous agreement, is unknown to its proceedings.

The "previous question," according to the practice of parliamentary bodies here, is introduced by a motion "that the main question be now put." In the House of Representatives it is put without debate. In some assemblies a debate is allowed, which, however, is confined strictly to the question whether or not the vote shall be taken at once, without permitting any discussion of the merits of the pending measure.

If the "previous question" is ordered, there can be no further debate, and, what is commonly of quite as much importance, there can be no further amendment. The measure must be adopted or rejected as it is; so that members are put in the awkward position of being compelled to vote against a measure containing some things which they approve or for a measure containing some things which they dislike, without a chance to perfect it or to record their opinion on particular parts or clauses. Measures are passed or defeated without giving opportunity to the members of the body either to instruct their associates by discussion or to perfect the measure by suggesting amendments.

There are also in other legislative bodies limitations on the time of debate, either by general rules or by special orders passed by the majority in particular cases. But in the Senate there can be no limit upon debate except by unanimous consent. In this assembly speech is absolutely unfettered. Every measure can be discussed fully without restraint and amended without limit. This is of immense importance, not only to the perfection of legislation, but also to the dignity of the Senate, and, in my opinion, to civil liberty itself.

An attempt was made by Mr. Clay, during the Presidency of John Tyler, to introduce the hour rule and the "previous question" into the Senate. The Democratic minority threatened forcible resistance. Some of Mr. Clay's political friends flinched from his support, and the plan was given up.

It will be readily seen how great conservative force is exerted by a body so constituted, in which the discussion and amendment are unrestricted, even in the matter of ordinary legislation. But the House of Representatives has voluntarily placed itself at a disadvantage through a provision of the Constitution which was intended to secure for it a special dignity and privilege. In the convention which framed the Constitution there was an earnest controversy between the large States, which insisted that the representation in both Houses of Congress should be according to population, and the smaller States, which urged that the representation of the States should be equal.

It seemed for a good while that this difference could not be reconciled and that the convention must break up without accomplishing anything. The difference was reconciled by what is known as the Connecticut compromise, by which the States are to be equally represented in the Senate, but as an equivalent all bills for raising revenue must originate in the popular branch; but the Senate may propose or concur with amendments, as on other bills. The House of Representa-

tives claims, and the Senate for a long time has yielded the claim, that this gives the House the exclusive power of originating all the great appropriation bills by which the Government is carried on.

I have not space here to explain what I have fully explained elsewhere, how this provision, coupled with the "previous question" in the House, gives the power of fullest discussion and amendment of these great bills in the Senate, while as they are finally shaped the House commonly passes them not only without discussion and amendment, but even in ignorance of what they contain.

The passage of measures also under suspension of the rules, by which so many important bills are carried through the House without debate or consideration, is unknown to the practice of the Senate.

In England the use of the veto power is now unknown. The chief executive officers of the State represent the majority of the House of Commons, and change when that majority changes. The House of Lords have a concurrent share in legislation, but they do not venture long to maintain an opposition to the public will as represented by the Commons. If they should undertake to do so, the creation of new peers in sympathy with the Commons would soon overcome their resistance. So, notwithstanding their hereditary monarchy and hereditary legislative chamber, when England changes her mind the will of her people finds prompt expression in her laws.

But in the United States the process of change is slow, and is meant to be slow.

To any new law there must go the assent of the President, whose term of office is four years, and of the Senate, where the votes of Delaware, Rhode Island, and Nevada equal those of New York, Pennsylvania, and Ohio. Indeed, it may well be expected that instances will happen where the majority of the House will be of one political opinion for a generation and the majority of the Senate of another. That has been the case during twelve of the last fourteen years.

If any citizens be disposed to be impatient under this restraint upon the will of the majority, let them remember that it was in this way that our fathers laid the foundation of their Government below the frost.

They meant that it should declare the will of the people. But the will so declared was to be mature, deliberate, well-considered—its sober second thought.

They were building for centuries, not for hours. They were prescribing the laws of health and growth for a mighty national life, compared with whose duration years, terms of Presidential office, generations of men, are but as the pulsation of an artery.

The Senate also shares with the President the great power of making treaties. This is expressly declared by the Constitution to be part of the lawmaking power. Treaties duly ratified become the law of the land. They repeal all former laws with which they are inconsistent. They can only be repealed themselves by new treaties or by later laws, to which, of course, the consent of the Senate is essential.

Such is our great constitutional barrier against popular error or caprice.

The Senate is a shield equally impenetrable against the usurpation of Executive power. Congress may by law vest the appointment of inferior officers in the President alone, in the heads of the Departments, or in the courts of law. But ambassadors, public ministers and consuls, judges of the Supreme Court, all officers not inferior, and all other

officers whose appointment as above is not vested in the President, heads of departments, or courts, can be appointed only by the advice and consent of the Senate. This includes also, it should be noted, all officers of the Army and Navy.

The Executive can act only through these instruments. It is unlikely that he would ever find many servants in any attempts upon the liberties of the people among public officers whose appointment has received the approval of a majority of a body representing all the States of the Union.

But there is another security. That is the jurisdiction of the Senate as a high court of impeachment. The House of Representatives can place every national officer, including the President, upon his trial before the Senate for treason, bribery, or other high crimes and misdemeanors. Judgment upon conviction may extend to removal from office and perpetual disqualification to hold and enjoy any office of honor, trust, or profit under the United States. The pardoning power of the President does not extend to cases of conviction upon impeachment.

We have had, fortunately, during our first century, little occasion to resort to this power. But James Monroe declares that "The right of impeachment and of trial by the legislature is the mainspring of the great machine of government. It is the pivot on which it turns. If preserved in full vigor and exercised with perfect integrity every branch will perform its duty."

Every executive officer who shall seek to usurp power, or who shall in any way commit high crime or misdemeanor in office, may be impeached by the House of Representatives and tried before the Senate, and, on conviction, removed from office and adjudged incapable of holding office forever thereafter. It has been doubted whether an officer can be impeached after he has left office, either by resignation or the expiration of his term. But the Senate has twice held that he is still subject to impeachment.

Over every public officer, whether he be tempted to abuse or usurp power or to gain wealth by corrupt means in office, hangs during his whole life the dread of what the Federalist calls the "awful discretion" of the Senate to try him in the presence of the whole American people, and to visit him with the perpetual infamy of its sentence.

The limit upon the number of the Senate is an added security for its performing its conservative functions. Experience has shown that however calm and dignified and wise individual men may be, they become easily subject to passion and excitement when assembled in large bodies. James Madison said that "had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob."

SHOULD SENATORS BE ELECTED BY THE PEOPLE?

In order that those who do the writer the honor of reading this contribution to the study of a very important question may thoroughly understand in what way and to what end the Senate of the United States came to be composed as it is, I beg the reader's indulgence to begin with some generalities of theory and historic events, which, however well known, can hardly, especially in these days, be too often repeated.

The establishment of all good government has been designed to secure liberty and justice. To do this, restraints and counterpoises have been proved, both by philosophy and by all human experience, to be absolutely indispensable. If too much power is vested in the Executive, there is a constant tendency toward usurpation and tyranny. If too much power is left with the people, or their immediate delegates, unchecked, there is continual gravitation toward frequent and ill-considered changes in the laws, as temporary maladies that no law can cure, or crude speculative theories, may disturb the content or excite the day-dreams of the people,—such as fiat money, loaning government money on real-estate security, and the great multitude of nostrums that socialism and anarchism propose as specifics for evils that are inherent among men as social animals, and that no act of legislation can possibly cure. Self-knowledge and self-control are, and always have been, as necessary to the welfare of communities and states as to individuals. All this is as obvious and trite as it is fundamental; but, as one of the old State Constitutions of more than one hundred years ago put it, "a frequent recurrence to fundamental principles" must be the duty and safeguard of every society that wishes to be free and happy.

It has been upon such considerations that written constitutions have been framed and adopted in establishing governments of the people, declaring inalienable rights, separating governmental powers and duties into three divisions,—legislative, executive, and judiciary, —and dividing the legislative power between two separate bodies *differently constituted and composed by different processes of popular action*, and setting bounds and barriers against the preponderance of any one of such divisions, and imposing restraints upon any sudden change in the constitutions themselves. It was upon such principles and under such conditions that the great, and then unique, Constitution of the United States came into existence in 1787.

The Convention that framed it was constituted by the separate and independent action of all the thirteen original States (excepting Rhode Island, which sent no delegates), upon the solemn appeal of the Continental Congress, made after seven years of bitter experience in war and three in peace, during both of which periods the need of the fundamental elements and adjustments of a government adequate to the preservation of the liberties of the people, the administration of personal justice, and the stability of the whole republic, were made fully and often painfully manifest. The men who composed the Convention were possessed of all that knowledge which the histories

and careers of all other civilized countries and peoples could furnish; they represented all the principal occupations of civilized society and all the phases of political philosophy—monarchical in one direction, and so-called pure democracy in the other. It was presided over by "His Excellency, George Washington, Esquire," as he is styled in the Convention Journal. The Convention labored assiduously from the 25th of May until the 15th of September, 1787, when the completed Constitution was agreed upon and signed by representatives of all the States, excepting Rhode Island, which, as has been said, took no part in the Convention. Almost every example and method of government was examined and discussed. The *apparent* conflicts of interest, and the *real* jealousies existing between large states and small ones, were to be accommodated or overcome,—undue centralization, on the one hand, as well as the fatal weakness of a mere league of states on the other, were to be guarded against. To accomplish all these supreme ends, it was easy for those learned, experienced, and patriotic men to agree that the new government should be composed of three independent departments,—legislative, executive, and judicial; and that the legislative branch should be composed of two independent parts, each having a negative on the other. But the composition of the two houses was a subject of extreme difficulty.

The States, without regard to geographical dimensions, population or wealth, freedom or slavery, were, under the Confederacy, absolute equals, and the national powers scarcely extended to, or operated personally upon, any of the citizens of the States. At last, after considering and reconsidering nearly every variety of propositions, it was agreed that the House of Representatives should be chosen directly by the people and in proportion to the number of inhabitants in each State, excepting two-fifths of the slaves. And after similar tribulations of proposal and discussion, it was settled that the President should be chosen on the principle of having regard, chiefly, to the population of the various States. So far, then, it was a government based upon capitation, and, in one part of it, required to be constituted by the direct vote of the people,—the weight and force of *numbers alone*. It was obvious that if the other branch of the legislature were constituted in the same way, either as to the number from each State or the direct method of election, there would be a perpetual tendency toward the effacement of State rights and State sovereignty in respect of local affairs, and the establishment of a national democracy by government, practically, *en masse*, where the weight of the mass in one part of the country might, and probably would, dominate over other parts, and might in the end destroy the peaceful liberties of all, as has been the ever-repeating experience of ill-balanced and unchecked forms of government,—democracy succeeding conservatism and liberal order; the commune succeeding democracy; anarchism overturning the commune; and a single despot or brace of despots springing from the cabals and corruptions of communism and anarchy to be the masters of all.

To establish a secure barrier against such tendencies and dangers, the constitution of a second legislative branch composed of persons having a different constituency, and representing the independent equality of the States, was a supreme necessity.

In the Convention every aspect of the question was considered, and nearly or quite every possible method of accomplishing the pur-

pose was suggested. In the first draft of a Constitution submitted by Edmund Randolph, of Virginia, it was proposed that the Senate be elected by the House of Representatives "out of a proper number of persons nominated by the individual legislatures."[1] Mr. Dickinson, of Delaware, and Roger Sherman, proposed that the senators "ought to be chosen by the individual legislatures."[2] Mr. Wilson, and Mr. Morris, of Pennsylvania, proposed that the senators "be elected by the people *in districts* to be formed for that purpose."[3] Mr. Sherman and Mr. Ellsworth moved that in the Senate "each State shall have one vote."[4] Mr. Wilson and Mr. Hamilton moved that voting in the Senate "ought to be according to the rule established for the first branch" (the House of Representatives).[1] Mr. Hamilton proposed that Senators be elected "by electors chosen for that purpose by the people,—in order to this, the States to be divided into election districts."[5]

These various propositions were considered in Committee of the Whole, which on the 19th of June reported to the whole House a scheme which provided that the members of the Senate "ought to be chosen by the individual legislatures."[6] *This proposition was agreed to, unanimously, in the Committee of the Whole;*[7] and in the whole House it was agreed to in connection with another proposition, by nine States to two, when it first came up on June 25.[8] This difference is accounted for by the struggle then pending as to whether the States should vote in the Senate as in the existing Confederacy, *i. e.*, each State having one vote. When the question again came up on August 9,[9] there does not appear to have been any difference of opinion as to the wisdom of choosing senators by the State legislatures. The only difference was as to the amount of representation each State should have; and on September 17, "on the question to agree to the Constitution in order to be signed, all the States answered Aye."

It will be seen that the proposal to elect senators by the people was brought forward and considered deliberately, and as deliberately and almost, if not quite, unanimously dismissed. The debates[10] show how calmly and fully the whole subject was considered, and how nearly unanimous the great statesmen and patriots who composed the Convention were in deciding against the proposition, which "these new charmers who keep serpents" have now revived.

The essential and underlying idea of the structure of our national government is that in its relations to the people in respect of the subjects submitted to it by the Constitution, and no others, it is a government operating upon *persons*, and that in respect of all its other relations with the people of the several States it affects them in their *collective character as States*.

The ultimate sovereign power of a free state must and should always reside in the people. But a wise people who wish to remain

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[1] Convention Journal, p. 67, May 29.
[2] P. 105, June 7.
[3] P. 106, June 7.
[4] Ibid. p. 112, June 11.
[5] P. 130, June 18.
[6] P. 135.
[7] P. 106.
[8] P. 147.
[9] Pp. 237, 238.
[10] Madison Papers.

free and sovereign never undertake the task of exercising their sovereignty otherwise than by selecting representatives responsible to them, to do all acts of governmental sovereignty, save in passing *ad referendum* upon their Constitutions. It is true that in some of the Swiss republics and in a few of the States of our Union some laws have been passed to take effect upon the approval of the people, but these are rare exceptions. The legislature of a State, then, is the depositary of the whole mass of the sovereign power which the people, as such, have set forth and defined in its Constitution. It expresses the *will* of the State; the Executive executes that will; and the judiciary, in cases of dispute, decides what that will is. In constituting and exercising such a sovereignty, the people of a State never elect either branch of their legislature by the popular vote of all the citizens on a general ticket: that step remains to come in when the dream of the socialist shall be realized. The reason is obvious. Such a method would be purely the voice of an aggregation of mere numbers regardless of intelligence, property, and business interests, as well as of that innate sense of the value of the geographical distribution and separation of the various parts of a State into small communities substantially homogeneous. This notion begins with the nature of man himself as a separate individual; it is the foundation of the family, the town, the county, and of the State also, in our great republic. Upon it rests the division of States into congressional districts, which took place in 1842, after fifty-three years of experience had demonstrated the evils of the system of electing members of the House of Representatives from each State by a vote *en masse*,—a system to which no one is yet wild enough to propose a return. The government of a State is instituted for the benefit of the whole people, and not for that of party, nor for that of a majority of its people alone; and the act of a State in choosing its senators is one of the most important parts of its governmental duty. Both reason and experience prove that an election by a majority of all the people of a State is radically a different thing from the choice of the same officers by the people (through their representatives) of the separate political divisions of it. In respect of members of the House of Representatives and of the State legislatures, the vast majority of citizens will agree that such a system of mass voting would be unendurable, and dangerous to, and at last destructive of, good government, and even liberty itself, as rational men understand the term.

If these conclusions be true as regards the election of members of the House of Representatives and the members of the State legislatures, is it not equally clear that the founders of the republic adopted the best possible—and indeed imaginable—method of choosing the members of the national Senate? They believed that the liberty and happiness of the people of the several States—States which they foresaw would finally embrace a continent in their benign sway—could only be preserved by such divisions and subdivisions of the sources and methods and exercise of political power as they adopted and provided for. A century of experience has demonstrated the wisdom of their marvellous plan.

But a new school of politicians has now appeared who profess to believe that the Fathers were mistaken in their theory of the surest foundation of our national republic, and that the system they adopted has not, in regard to senators, worked well,—that the senators have

not been the choice of, and have not represented. the great body of the people of the States that elected them, and therefore that elections of senators should be had by the suffrage of all the voters in the State *acting together*. One test of the truth of the first statement is the fact that of the less than 900 persons who have served as senators since the government was organized in 1789, more than 200 have been members of the House of Representatives—substantially one-fourth.

State.	Number of Senators since 1789.	Have served in House of Representatives.	Serving in House subsequent to Senatorial term.	State.	Number of Senators since 1789.	Have served in House of Representatives.	Serving in House subsequent to Senatorial term.
Alabama	18	7	.....	Montana	2	.....	.....
Arkansas	14	3	.....	Nebraska	7	2	.....
California	19	6	.....	Nevada	5	.....	.....
Colorado	7	2	.....	New Hampshire	38	15	1
Connecticut	34	18	1	New Jersey	34	9	2
Delaware	29	11	.....	New York	38	15	.....
Florida	11	1	.....	North Carolina	27	10	1
Georgia	37	16	.....	North Dakota	3	1	.....
Idaho	3	1	.....	Ohio	27	9	.....
Illinois	23	9	.....	Oregon	13	5	1
Indiana	22	13	.....	Pennsylvania	33	14	1
Iowa	10	5	.....	Rhode Island	32	7	1
Kansas	10	2	.....	South Carolina	32	11	1
Kentucky	35	17	3	South Dakota	3	1	.....
Louisiana	28	7	2	Tennessee	30	9	.....
Maine	20	11	.....	Texas	13	4	.....
Maryland	34	15	2	Vermont	23	9	1
Massachusetts	33	24	4	Virginia	38	20	.....
Michigan	18	7	.....	Washington	2	1	.....
Minnesota	11	5	1	West Virginia	10	2	.....
Mississippi	27	8	1	Wisconsin	10	3	.....
Missouri	18	3	1	Wyoming	2	1	.....

Only two States—Montana and Nevada—have not been thus represented, while more than one-half of the senators from Massachusetts, Connecticut, Indiana, and Maine have been members of the House of Representatives; and, in addition to these, a very large fraction of the senators have been governors and judges elected by the people in their States. These facts show that it has been almost universally true that those chosen as senators have possessed the confidence, not only of the legislative representatives of political divisions of the States, but of the whole body of the people as well. The second part of the assertion of the persons who have seen a new light, as they think, is that sometimes "senators do not represent their States." This is true; but, happily for all the States and their people, *a senator, once chosen, becomes a senator of the United States*, and is not the mere agent of the State that chose him. And, as to the State itself that chose him, it has happened, and will happen again, that a gust of passion or a misguided opinion has taken temporary possession of a majority of the people of a particular State, which the senator, in his bounden duty to all the States, has dis-

regarded. This was one of the very incidents that the patriots of 1787 foresaw and provided against by legislative elections and a long time of service.

Again, the new school of constitution-makers say that they think the Senate has become a body of rich men who gained their places by corrupting legislatures in a pecuniary way. But to any one acquainted with the personality of the Senate as it has existed for a generation and is now, such a statement is known to be absolutely destitute of foundation. The proportion of rich men in the Senate is not greater than that which exists in every State and community in the whole country where the honors and responsibilities of public office are shared alike by the rich, the comfortable, and the poor. As a perfect millennium has not yet been reached, it is doubtless true that some (but very few) men have secured election as senators by pecuniary persuasions, or, to put it roughly, have "bought their places" with money,—a crime of the worst character both in the buyer and in the seller. But alas, this is not a peculiarity belonging to the office of senator alone. It has happened equally or more often in elections to the House of Representatives, as well as in State and municipal elections. A legislative election of senators, therefore, is not the cause of this great evil. In the nature of things, it must be worse in popular elections, for the members of a legislature must, in the choice of the senator, vote openly, so that the constituents know whether or not their representatives have followed the general judgment of the particular communities they represent,—a matter of vital importance in all representative government. But in popular elections, where each citizen is acting in his personal character only, it is equally important that he have the right to vote secretly, notwithstanding that he may be bribed in spite of every precaution that the law may adopt to prevent it. And when we go back of the regular act of a government election and reach the "primaries" and the district, the county and State conventions, all barriers and safeguards are left behind, and the corruptions of riches and still more of trading machines and office brokerage, have their easiest and most abundant field of achievement in selecting candidates. To cite examples to the intelligent reader would be a waste of time. The real people of this republic of States and citizens—those who believe in liberty and order as inseparable, who believe in the value of individual endeavor and frugality, and, as a consequence, in the right to save earnings and to have homes and houses and lands and schools and churches—should consider:—

First, that the Constitutional provision for the choosing of two senators from each State by its legislature was wisely designed by the States that founded the government, as one of the corner-stones of the structure necessary to secure the rights and safety of the States.

Second, that a legislative instead of a popular election was adopted as necessary to the expression of the deliberate will of the State in its character as such, represented in all its parts in the way in which its own constitution distributed power.

Third, that the people of the several political divisions of the State should have the right to express their choice separately through their legal representatives, as they do in making laws, and not be overwhelmed by a mere weight of numbers that might occupy only a

corner of the State and possess interests and cherish ambitions quite unlike those of all the other sections of the commonwealth.

Fourth, that the Senate as it has existed for a century has demonstrated the wisdom of the mode of its constitution.

Fifth, that its members have been as free from any just accusation of corruption, either in their election or in their course as senators, as any equal number of men connected with public affairs on the face of the earth, or connected with all the employments of private life.

Sixth, that as the election of senators by the State legislatures must be by open public voting, the danger of bribery, or the misrepresentation of constituents for other causes, is reduced to a minimum, and stands in strong contrast with the election of senators by the direct vote of the whole mass of voters in the several States, and especially in States where political parties are nearly equal in numbers.

Seventh, that, whatever evils now and then happen under the present system, they do not arise from any fault in the system itself, but from the fault of the body of citizens themselves,—non-attendance at caucuses and primaries; non-attendance at registration and at the polls; slavish fidelity to party organizations and party names; a contributing to and winking at the corrupt use of money at nominating conventions and elections; and the encouragement or tolerance of individual self-seeking in respect of getting possession of offices, all of which are truly public trusts.

Eighth, that in ninety-five instances out of a hundred, if there be an evil or inadequate senator or other officer in the public service, it is because the power that elected or appointed him—his State or community—has been either grievously negligent or else is fairly represented. We must believe that the people's government is a failure and a delusion, to think otherwise.

Ninth, and finally, there is neither reasonable nor plausible ground then, for taking the grave step of disturbing the exact and solid balance of the powers and functions of our national Constitution, which has in these respects given us a century of security, of State representation, and of State rights, as well as a wonderful national progress as a people.

GEO. F. EDMUNDS.

Senate Document No. 404, Fifty-seventh Congress, first session.

Mr. GALLINGER presented the following

DEBATES IN THE FEDERAL CONVENTION OF 1787, HELD AT PHILADELPHIA, ON THE ELECTION OF SENATORS, COMPILED BY A. P. C. GRIFFIN, CHIEF BIBLIOGRAPHER, LIBRARY OF CONGRESS.

JUNE 11, 1902.—Referred to the Committee on Privileges and Elections and ordered to be printed.

DEBATE, IN THE FEDERAL CONVENTION OF 1787, HELD AT PHILADELPHIA, ON THE ELECTION OF SENATORS.

[Compiled by A. P. C. Griffin, Chief Bibliographer, Library of Congress.]

THURSDAY, *May 31.*

WILLIAM PIERCE, from Georgia, took his seat.

In the committee of the whole on Mr. RANDOLPH'S resolutions, the third resolution, "*that the national legislature ought to consist of two branches*," was agreed to without debate or dissent, except that of Pennsylvania, given probably from complaisance to Dr. FRANKLIN, who was understood to be partial to a single house of legislation.

The fourth resolution, first clause, "*that the members of the first branch of the national legislature ought to be elected by the people of the several States*," being taken up.

Mr. SHERMAN opposed the election by the people, insisting that it ought to be by the State legislatures. The people, he said, immediately, should have as little to do as may be about the government. They want information, and are constantly liable to be misled.

Mr. GERRY. The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots. In Massachusetts it had been fully confirmed by experience that they are daily missled into the most baneful measures and opinions by the false reports circulated by designing men, and which no one on the spot can refute. One principal evil arises from the want of due provision for those employed in the administration of government. It would seem to be a maxim of democracy to starve the public servants. He mentioned the popular clamor in Massachusetts for the reduction of salaries, and the attack made on that of the governor, though secured by the spirit of the constitution itself. He had, he said, been

too republican heretofore; he was still, however, republican, but had been taught by experience the danger of the levelling spirit.

Mr. MASON argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of the Government. It was, so to speak, to be our House of Commons. It ought to know and sympathize with every part of the community, and ought therefore to be taken not only from different parts of the whole Republic, but also from different districts of the larger members of it, which had in several instances, particularly in Virginia, different interests and views arising from difference of produce, of habits, etc. He admitted that we had been too democratic, but was afraid we should incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity and policy; considering that, however affluent their circumstances or elevated their situations might be, the course of a few years not only might, but certainly would, distribute their posterity throughout the lowest classes of society. Every selfish motive, therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights and happiness of the lowest than of the highest order of citizens.

Mr. WILSON contended strenuously for drawing the most numerous branch of the legislature immediately from the people. He was for raising the Federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican government this confidence was peculiarly essential. He also thought it wrong to increase the weight of the State legislatures by making them the electors of the National Legislature. All interference between the general and local governments should be obviated as much as possible. On examination it would be found that the opposition of the States to Federal measures had proceeded much more from the officers of the States than from the people at large.

Mr. MADISON considered the popular election of one branch of the national legislature as essential to every plan of free government. He observed that in some of the States one branch of the legislature was composed of men already removed from the people by an intervening body of electors; that if the first branch of the general legislature should be elected by the State legislatures, the second branch elected by the first, the executive by the second together with the first, and other appointments again made for subordinate purposes by the executive, the people would be lost sight of altogether and the necessary sympathy between them and their rulers and officers too little felt. He was an advocate for the policy of refining the popular appointments by successive filtrations, but thought it might be pushed too far. He wished the expedient to be resorted to only in the appointment of the second branch of the legislature and in the executive and judiciary branches of the government. He thought, too, that the great fabric to be raised would be more stable and durable if it should rest on the solid foundation of the people themselves than if it should stand merely on the pillars of the legislatures.

Mr. GERRY did not like the election by the people. The maxims taken from the British constitution were often fallacious when applied to our situation, which was extremely different. Experience, he said,

had shown that the State legislatures, drawn immediately from the people, did not always possess their confidence. He had no objection, however, to an election by the people if it were so qualified that men of honor and character might not be unwilling to be joined in the appointments. He seemed to think the people might nominate a certain number, out of which the State legislatures should be bound to choose.

Mr. BUTLER thought an election by the people an impracticable mode.

On the question for an election of the first branch of the national legislature by the people,

Massachusetts, New York, Pennsylvania, Virginia, North Carolina, Georgia—aye, 6.

New Jersey, South Carolina—no, 2.

Connecticut, Delaware, divided.

The remaining clauses of the fourth resolution, relating to *the qualifications of members of the national legislature*, being postponed, nemine contradicente, as entering too much into detail for general propositions,

The committee proceeded to the fifth resolution, *that the second (or senatorial) branch of the national legislature ought to be chosen, by the first branch, out of the persons nominated by the State legislatures.*

Mr. SPAIGHT contended that the second branch ought to be chosen by the State legislatures, and moved an amendment to that effect.

Mr. BUTLER apprehended that the taking of so many powers out of the hands of the States as was proposed tended to destroy all that balance and security of interests among the States which it was necessary to preserve, and called on Mr. RANDOLPH, the mover of the propositions, to explain the extent of his ideas, and particularly the number of members he meant to assign to this second branch.

Mr. RANDOLPH observed that he had, at the time of offering his propositions, stated his ideas, as far as the nature of general propositions required; that details made no part of the plan and could not perhaps with propriety have been introduced. If he was to give an opinion as to the number of the second branch, he should say that it ought to be much smaller than that of the first; so small as to be exempt from the passionate proceedings to which numerous assemblies are liable. He observed that the general object was to provide a cure for the evils under which the United States labored; that in tracing these evils to their origin every man had found it in the turbulence and follies of democracy; that some check, therefore, was to be sought for against this tendency of our governments, and that a good Senate seemed most likely to answer the purpose.

Mr. KING reminded the committee that the choice of the second branch, as proposed (by Mr. SPAIGHT), viz, by the State legislatures, would be impracticable unless it was to be very numerous, or *the idea of proportion* among the States was to be disregarded. According to this *idea* there must be eighty or a hundred members to entitle Delaware to the choice of one of them.

Mr. SPAIGHT withdrew his motion.

Mr. WILSON opposed both a nomination by the State legislatures and an election by the first branch of the national legislature because the second branch of the latter ought to be independent of both. He thought both branches of the national legislature ought to be chosen by the people, but was not prepared with a specific proposition. He

suggested the mode of choosing the senate of New York, to wit, of uniting several election districts for one branch in choosing members for the other branch, as a good model.

Mr. MADISON observed that such a mode would destroy the influence of the smaller States associated with larger ones in the same district, as the latter would choose from within themselves, although better men might be found in the former. The election of Senators in Virginia, where large and small counties were often formed into one district for the purpose, had illustrated this consequence. Local partiality would often prefer a resident within the county or State to a candidate of superior merit residing out of it. Less merit also in a resident would be more known throughout his own State.

Mr. SHERMAN favored an election of one member by each of the State legislatures.

Mr. PINCKNEY moved to strike out the "nomination by the State legislatures."

On this question,*

Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia—no, 9.

Delaware, divided.

On the whole question for electing by the first branch out of nominations by the State legislatures,

Massachusetts, Virginia, South Carolina—aye, 3.

Connecticut, New York, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia—no, 7.

So the clause was disagreed to, and a chasm left in this part of the plan.

THURSDAY, *June 7.*

IN COMMITTEE OF THE WHOLE.

Mr. PINCKNEY, according to notice, moved to reconsider the clause respecting the negative on State laws, which was agreed to, and tomorrow fixed for the purpose.

The clause providing for the appointment of the second branch of the national legislature having lain blank since the last vote on the mode of electing it, to wit, by the first branch Mr. DICKINSON now moved, "that the members of the second branch ought to be chosen by the individual legislatures."

Mr. SHERMAN seconded the motion, observing that the particular States would thus become interested in supporting the national government and that a due harmony between the governments would be maintained. He admitted that the two ought to have separate and distinct jurisdictions, but that they ought to have a mutual interest in supporting each other.

Mr. PINCKNEY. If the small States should be allowed one Senator only, the number will be too great; there will be eighty, at least.

Mr. DICKINSON had two reasons for his motion—first, because the sense of the States would be better collected through their govern-

*This question is omitted in the printed journal, and the votes applied to the succeeding one instead of the votes as here stated.

ments than immediately from the people at large; secondly, because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the State legislatures than in any other mode. The greatness of the number was no objection with him. He hoped there would be eighty, and twice eighty, of them. If their number should be small, the popular branch could not be balanced by them. The legislature of a numerous people ought to be a numerous body.

Mr. WILLIAMSON preferred a small number of Senators, but wished that each State should have at least one. He suggested 25 as a convenient number. The different modes of representation in the different branches will serve as a mutual check.

Mr. BUTLER was anxious to know the ratio of representation before he gave an opinion.

Mr. WILSON. If we are to establish a national government, that government ought to flow from the people at large. If one branch of it should be chosen by the legislatures and the other by the people, the two branches will rest on different foundations and dissensions will naturally arise between them. He wished the Senate to be elected by the people, as well as the other branch. The people might be divided into proper districts for the purpose; and he moved to postpone the motion of Mr. DICKINSON, in order to take up one of that import.

Mr. MORRIS seconded him.

Mr. READ proposed "that the Senate should be appointed, by the executive magistrate, out of a proper number of persons to be nominated by the individual legislatures." He said he thought it his duty to speak his mind frankly. Gentlemen, he hoped, would not be alarmed at the idea. Nothing short of this approach toward a proper model of government would answer the purpose, and he thought it best to come directly to the point at once. His proposition was not seconded nor supported.

Mr. MADISON. If the motion (of Mr. DICKINSON) should be agreed to, we must either depart from the doctrine of proportional representation, or admit into the Senate a very large number of members. The first is inadmissible, being evidently unjust. The second is inexpedient. The use of the Senate is to consist in its proceeding with more coolness, with more system, and with more wisdom, than the popular branch. Enlarge their number, and you communicate to them the vices which they are meant to correct. He differed from Mr. DICKINSON, who thought that the additional number would give additional weight to the body.

On the contrary, it appeared to him that their weight would be in an inverse ratio to their numbers. The example of the Roman tribunes was applicable. They lost their influence and power in proportion as their number was augmented. The reason seemed to be obvious. They were appointed to take care of the popular interests and pretensions at Rome, because the people, by reason of their numbers, could not act in concert and were liable to fall into factions among themselves and to become a prey to their aristocratic adversaries. The more the representatives of the people, therefore, were multiplied the more they partook of the infirmities of their constituents; the more liable they became to be divided among themselves, either from

their own indiscretions or the artifices of the opposite faction, and of course the less capable of fulfilling their trust. When the weight of a set of men depends merely on their personal characters, the greater the number the greater the weight. When it depends on the degree of political authority lodged in them, the smaller the number the greater the weight. These considerations might perhaps be combined in the intended Senate, but the latter was the material one.

Mr. GERRY. Four modes of appointing the Senate have been mentioned. First, by the first branch of the National Legislature. This would create a dependence contrary to the end proposed. Secondly, by the National Executive. This is a stride toward monarchy that few will think of. Thirdly, by the people. The people have two great interests—the landed interest and the commercial, including the stockholders. To draw both branches from the people will leave no security to the latter interest, the people being chiefly composed of the landed interest and erroneously supposing that the other interests are adverse to it. Fourthly, by the individual legislatures. The elections being carried through, this refinement will be most like to provide some check in favor of the commercial interests against the landed, without which oppression will take place; and no free government can last long where that is the case. He was therefore in favor of this last.

Mr. DICKINSON. (It will throw light on this discussion to remark that an election by the State legislatures involved a surrender of the principle insisted on by the large States and dreaded by the small ones; namely, that of a proportional representation in the Senate. Such a rule would make the body too numerous, as the smallest State must elect one member at least.) The preservation of the States in a certain degree of agency is indispensable. It will produce that collision between the different authorities which should be wished for in order to check each other. To attempt to abolish the States altogether would degrade the councils of our country, would be impracticable, would be ruinous. He compared the proposed national system to the solar system, in which the States were the planets and ought to be left to move freely in their proper orbits. The gentleman from Pennsylvania (Mr. WILSON) wished, he said, to extinguish these planets.

If the State governments were excluded from all agency in the national one, and all power drawn from the people at large, the consequence would be that the National Government would move in the same direction as the State governments now do, and would run into all the same mischiefs. The reform would only unite the thirteen small streams into one great current, pursuing the same course without any opposition whatever. He adhered to the opinion that the Senate ought to be composed of a large number, and that their influence, from family weight and other causes, would be increased thereby. He did not admit that the tribunes lost their weight in proportion as their number was augmented, and gave an historical sketch of this institution. If the reasoning (of Mr. MADISON) was good, it would prove that the number of the Senate ought to be reduced below ten, the highest number of the tribunitial corps.

Mr. WILSON. The subject, it must be owned, is surrounded with doubts and difficulties. But we must surmount them. The British Government can not be our model. We have no materials for a similar one. Our manners, our laws, the abolition of entails and primo-

geniture, the whole genius of the people, are opposed to it. He did not see the danger of the States being devoured by the National Government. On the contrary, he wished to keep them from devouring the National Government. He was not, however, for extinguishing these planets, as was supposed by Mr. DICKINSON; neither did he on the other hand believe that they would warm or enlighten the sun. Within their proper orbits they must still be suffered to act, for subordinate purposes, for which their existence is made essential by the great extent of our country. He could not comprehend in what manner the landed interest would be rendered less predominant in the Senate by an election through the medium of the legislatures than by the people themselves. If the legislatures, as was now complained, sacrificed the commercial to the landed interest, what reason was there to expect such a choice from them as would defeat their own views? He was for an election by the people in large districts, which would be most likely to obtain men of intelligence and uprightness, subdividing the districts only for the accommodation of voters.

Mr. MADISON could as little comprehend in what manner family weight, as desired by Mr. DICKINSON, would be more certainly conveyed into the Senate through elections by the State legislatures than in some other modes. The true question was in what mode the best choice would be made. If an election by the people or through any other channel than the State legislatures promised as uncorrupt and impartial a preference of merit, there could surely be no necessity for an appointment by those legislatures. Nor was it apparent that a more useful check would be derived through that channel than from the people through some other. The great evils complained of were that the State legislatures ran into schemes of paper money, etc., whenever solicited by the people, and sometimes without even the sanction of the people. Their influence, then, instead of checking a like propensity in the National Legislature, may be expected to promote it. Nothing can be more contradictory than to say that the National Legislature, without a proper check, will follow the example of the State legislatures, and in the same breath that the State legislatures are the only proper check.

Mr. SHERMAN opposed elections by the people in districts not likely to produce such fit men as elections by the State legislatures.

Mr. GERRY insisted that the commercial and moneyed interest would be more secure in the hands of the State legislatures than of the people at large. The former have more sense of character and will be restrained by that from injustice. The people are for paper money when the legislatures are against it. In Massachusetts the county conventions had declared a wish for a *depreciating* paper that would sink itself. Besides, in some States there are two branches in the legislature, one of which is somewhat aristocratic. There would, therefore, be so far a better chance of refinement in the choice. There seemed, he thought, to be three powerful objections against elections by districts.

First. It is impracticable; the people can not be brought to one place for the purpose, and whether brought to the same place or not, numberless frauds would be unavoidable.

Secondly. Small States, forming part of the same district with a large one, or a large part of a large one, would have no chance of gaining an appointment for its citizens of merit.

Thirdly. A new source of discord would be opened between different parts of the same district.

Mr. PINCKNEY thought the second branch ought to be permanent and independent, and that the members of it would be rendered more so by receiving their appointments from the State legislatures. This mode would avoid the rivalships and discontents incident to the election by districts. He was for dividing the States in three classes according to their respective sizes, and for allowing to the first class three members; to the second, two, and to the third, one.

On the question for postponing Mr. DICKINSON's motion, referring the appointment of the Senate to the State legislatures, in order to consider Mr. WILSON's for referring it to the people,

Pennsylvania—aye, 1.

Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia—no, 10.

Colonel MASON. Whatever power may be necessary for the National Government, a certain portion must necessarily be left with the States. It is impossible for one power to pervade the extreme parts of the United States so as to carry equal justice to them. The State legislatures also ought to have some means of defending themselves against encroachments of the National Government. In every other department we have studiously endeavored to provide for its self-defense. Shall we leave the States alone unprovided with the means for this purpose? And what better means can we provide than the giving them some share in, or, rather, to make them a constituent part of, the national establishment? There is danger on both sides, no doubt, but we have only seen the evils arising on the side of the State governments. Those on the other side remain to be displayed. The example of Congress does not apply. Congress had no power to carry their acts into execution as the National Government will have.

On Mr. DICKINSON's motion for an appointment of the Senate by the State legislatures,

Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia—aye, 10.

TUESDAY, *May 29.*

IN CONVENTION.

Mr. RANDOLPH then opened the main business. * * *

He proposed, as conformable to his ideas, the following resolutions, which he explained one by one:

* * * * * * *

5. *Resolved*, That the members of the second branch of the National Legislature ought to be elected by those of the first out of a proper number of persons nominated by the individual legislatures; to be of the age of —— years at least; to hold their offices for a term sufficient to insure their independency; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service, and to be ineligible to any office established by a particular State or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service and for the space of —— after the expiration thereof. * * *

Mr. CHARLES PINCKNEY laid before the House a draft of a federal government which he had prepared, to be agreed upon between the free and independent States of America;

* * * * * * *

ART IV. The Senate shall be elected and chosen by the House of Delegates; which House, immediately after their meeting, shall choose by ballot —— Senators from among the citizens and residents of New Hampshire; —— from among those of Massachusetts; —— from among those of Rhode Island; —— from among those of Connecticut; —— from among those of New York; —— from among those of New Jersey; —— from among those of Pennsylvania; —— from among those of Delaware; —— from among those of Maryland; —— from among those of Virginia; —— from among those of North Carolina; —— from among those of South Carolina; and —— from among those of Georgia. The Senators chosen from New Hampshire, Massachusetts, Rhode Island, and Connecticut shall form one class; those from New York, New Jersey, Pennsylvania, and Delaware, one class; and those from Maryland, Virginia, North Carolina, South Carolina, and Georgia, one class. The House of Delegates shall number these classes, 1, 2, and 3; and fix the times of their service by lot. The first class shall serve for —— years; the second for —— years; and the third for —— years.

As their times of service expire the House of Delegates shall fill them up by elections for —— years, and they shall fill all vacancies that arise from death or resignation for the time of service remaining of the members so dying or resigning. Each Senator shall be —— years of age at least, and shall have been a citizen of the United States for four years before his election, and shall be a resident of the State he is chosen from. The Senate shall choose its own officers.

* * * * * * *

ART. X. Immediately after the first census of the people of the United States the House of Delegates shall apportion the Senate by electing for each State, out of the citizens resident therein, one Senator for every —— members each State shall have in the House of Delegates. Each State shall be entitled to have at least one member in the Senate. * * *

WEDNESDAY, *June 13.*

IN THE COMMITTEE OF THE WHOLE.

The committee rose, and Mr. GORHAM made report, which was postponed till to-morrow to give an opportunity for other plans to be proposed. The report was in the words following:

* * * * * * *

4. *Resolved*, That the members of the second branch of the National Legislature ought to be chosen by the individual legislatures; to be of the age of 30 years at least; to hold their offices for a term sufficient to insure their independence, namely, seven years; to receive fixed stipends by which they may be compensated for the devotion of their time to the public service, to be paid out of the National Treasury; to be ineligible to any office established by a particular State, or under the authority of the United States (except those peculiarly belonging to the functions of the second branch), during the term of service, and under the National Government for the space of one year after its expiration. * * *

MONDAY, *June 18.*

IN COMMITTEE OF THE WHOLE.

On the propositions of Mr. PATTERSON and Mr. RANDOLPH:

On motion of Mr. DICKINSON, to pospone the first resolution in Mr. PATTERSON's plan, in order to take up the following, viz—

That the Articles of Confederation ought to be revised and amended, so as to render the Government of the United States adequate to the exigencies, the preservation, and the prosperity of the Union—

The postponement was agreed to by ten States; Pennsylvania divided.

Mr. HAMILTON * * reads his sketch in the words following, to wit:

III. The Senate to consist of persons elected to serve during good behavior; their election to be made by electors chosen for that purpose by the people. In order to do this, the States to be divided into election districts. On the death, removal, or resignation of any Senator, his place to be filled out of the district from which he came. * * *

THURSDAY, *July 26.*

IN CONVENTION.

The proceedings since Monday last were unanimously referred to the committee of detail; and the convention then unanimously adjourned till Monday, August 6, that the committee of detail might have time to prepare and report the Constitution. The whole resolutions, as referred, are as follows:

* * * * * * *

4. *Resolved*, That the members of the second branch of the legislature of the United States ought to be chosen by the individual legislatures; to be of the age of 30 years at least; to hold their offices for six years, one-third to go out biennially; to receive a compensation for the devotion of their time to the public service; to be ineligible to, and incapable of holding, any office under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term for which they are elected, and for one year thereafter. * * *

MONDAY, *August 6.*

IN CONVENTION.

Mr. JOHN FRANCIS MERCER, from Maryland, took his seat.

Mr. RUTLEDGE delivered in the report of the committee of detail, as follows—a printed copy being at the same time furnished to each member:

ARTICLE V.

SEC. 1. The Senate of the United States shall be chosen by the legislatures of the several States. Each legislature shall choose two members. Vacancies may be supplied by the Executive until the next meeting of the legislature. Each member shall have one vote.

EXTRACTS FROM THE FEDERALIST ON THE ELECTION OF SENATORS.

THE FEDERALIST, NO. XXVII.

[Hamilton.]

To the people of the State of New York:

Various reasons have been suggested, in the course of these papers, to induce a probability that the General Government will be better administered than the particular governments, the principal of which reasons are that the extension of the spheres of election will present a

greater option, or latitude of choice, to the people; that through the medium of the State legislatures—which are select bodies of men, and which are to appoint the members of the national Senate—there is reason to expect that this branch will generally be composed with peculiar care and judgment; that these circumstances promise greater knowledge and more extensive information in the national councils, and that they will be less apt to be tainted by the spirit of faction and more out of the reach of those occasional ill-humors or temporary prejudices and propensities which, in smaller societies, frequently contaminate the public councils, beget injustice and oppression of a part of the community, and engender schemes which, though they gratify a momentary inclination or desire, terminate in general distress, dissatisfaction, and disgust.

Several additional reasons of considerable force, to fortify that probability, will occur when we come to survey with a more critic eye the interior structure of the edifice which we are invited to erect. * * *

THE FEDERALIST, NO. LXII.

[Hamilton or Madison.]

To the people of the State of New York:

Having examined the constitution of the House of Representatives and answered such of the objections against it as seemed to merit notice, I enter next on the examination of the Senate.

* * * * * * *

II. It is equally unnecessary to dilate on the appointment of Senators by the State legislatures. Among the various modes which might have been devised for constituting this branch of the Government, that which has been proposed by the convention is probably the most congenial with the public opinion. It is recommended by the double advantage of favoring a select appointment and of giving to the State governments such an agency in the formation of the Federal Government as must secure the authority of the former, and may form a convenient link between the two systems.

III. The equality of representation in the Senate is another point which, being evidently the result of compromise between the opposite pretensions of the large and the small States, does not call for much discussion. If, indeed, it be right that among a people thoroughly incorporated into one nation every district ought to have a *proportional* share in the government, and that among independent and sovereign States, bound together by a simple league, the parties, however unequal in size, ought to have an *equal* share in the common councils, it does not appear to be without some reason that in a compound republic, partaking both of the national and federal character, the government ought to be founded on a mixture of the principles of proportional and equal representation. But it is superfluous to try, by the standard of theory, a part of the Constitution which is allowed on all hands to be the result, not of theory, but "of a spirit of amity, and that mutual deference and concession which the peculiarity of our political situation rendered indispensable." A common government,

with powers equal to its objects, is called for by the voice, and still more loudly by the political situation, of America. A government founded on the principles more consonant to the wishes of the larger States is not likely to be obtained from the smaller States. The only option, then, for the former lies between the proposed government and a government still more objectionable. Under this alternative the advice of prudence must be to embrace the lesser evil, and, instead of indulging a fruitless anticipation of the possible mischiefs which may ensue, to contemplate rather the advantageous consequences which may qualify the sacrifice.

In this spirit it may be remarked that the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States and an instrument for preserving that residuary sovereignty. So far the equality ought to be no less acceptable to the large than to the small States, since they are not solicitous to guard, by every possible expedient, against an improper consolidation of the States into one simple republic.

Another advantage accruing from this ingredient in the constitution of the Senate is the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then, of a majority of the States. It must be acknowledged that this complicated check on legislation may in some instances be injurious as well as beneficial, and that the peculiar defense which it involves in favor of the smaller States would be more rational if any interests common to them and distinct from those of other States would otherwise be exposed to peculiar danger. But as the larger States will always be able, by their power over the supplies, to defeat unreasonable exertions of this prerogative of the lesser States, and as the facility and excess of law making seem to be the diseases to which our governments are most liable, it is not impossible that this part of the Constitution may be more convenient in practice than it appears to many in contemplation.

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TONGUE, Thomas H. Election of Senators by the people. Remarks, May 11, 1898.

(*In* Congressional record, vol. 31, pt. 5, p. 4819.)
Favors popular election.

TUCKER, Henry St. George. Election of United States Senators by the people. Speech, July 12, 1892.

(*In* Congressional record, vol. 23, pt. 6, pp. 6060–6066.)
General discussion, pp. 6066–6079.

——— *Same.* Speech, July 20, 1894.

(*In* Congressional record, vol. 26, pt. 10, appendix 2, pp. 1134–1136.)
Favors popular election.

TURPIE, David. Election of United States Senators by the people. Speech, Dec. 17, 1891.

(*In* Congressional record, vol. 23, pt. 1, pp. 76–80.)
Favors popular election.

——— *Same.* Speech, December 6, 1894.

(*In* Congressional record, v. 27, pt. 1, pp. 73–76.)
Favors popular election.

——— *Same.* Speech, February 6, 1896.

(*In* Congressional record, vol. 28, pt. 2, pp. 1382–1385.)
Favors popular election.

——— Election of Senators by direct vote. Speech, March 23, 1897.

(*In* Congressional record, vol. 30, pt. 1, pp. 169–173.)
Favors popular election.

UNDERWOOD, Oscar W. Election of Senators by the people. Remarks, May 11, 1898.

(*In* Congressional record, vol. 31, pt. 5, p. 4811.)
Favors popular election.

UNITED STATES. *43d Congress, 1st session.* Senate miscellaneous document no. 66. Resolution of the legislature of California, in favor of an amendment to the Constitution of the United States, providing that Senators may be elected by a direct vote of the people. Feb. 18, 1874. 1 page. 8°.

——— ——— Senate miscellaneous document no. 69. Resolution of the legislature of Iowa, in favor of an amendment to the Constitution, providing for the election of United States Senators by a direct vote of the people. Feb. 19, 1874. 1 page. 8°.

——— *52d Congress, 1st session.* Senate report no. 794. Part 1. Report by Mr. Chandler from the Committee on Privileges and Elections presenting a statement of his views adverse to the passage of the joint resolution (S. R. 8) for submitting to the States an amendment of the Constitution providing for the election of United States Senators by direct vote of the people. June 8, 1892. 3 pp. 8°.

——— ——— Senate report no. 794. Part 2. Views of the minority. Report by Mr. Mitchell [of the Committee on Privileges and Elections favoring the election of United States Senators by a direct vote of the people]. July 1, 1892. 11 pp. 8°.

——— ——— Senate miscellaneous document no. 89. Resolution relative to choosing United States Senators. Mar. 7, 1892. 1 page. 8°.

——— ——— House report no. 368. Election of Senators. Report by Mr. Tucker, from the Select Committee on the Election of President and Vice-President and Representatives in Congress. Feb. 16, 1892. 5 pp. 8°.

Reports favorably on the "Joint resolution proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States."

——— ——— House report no. 368. Part 2. Election of United States Senators. Views of the minority. Report by Mr. Bushnell of the Select Committee on Election of President and Vice-President and Senators and Representatives in Congress. Feb. 16, 1892. 3 pp. 8°.

The minority report proposes "a constitutional amendment that will *permit* the election of United States Senators by direct vote of the people when the people of any State shall so desire, and not *compel* any State to do so, if they prefer to retain the present method."

——— *53d Congress, 2d session.* Senate miscellaneous document no. 97. Resolution providing for amendments to the Constitution regulating the election of President and Vice-President of the United States, and the election of United States Senators by a direct vote of the people. Feb. 22, 1894. 1 page. 8°.

——— ——— House report no. 944. Election of Senators by the people. Report by Mr. Tucker, from the Committee on Election of President and Vice-President and Representatives in Congress. May 22, 1894. 7 pp. 8°.

Includes House report no. 368, 52d Congress, 1st session.
Favors popular election.

——— *53d Congress, 3d session.* Senate report no. 916. Views of the minority of the Committee on Privileges and Elections, favoring the election of United States Senators by direct vote of the people, presented by Mr. Turpie. Feb. 12, 1895. 3 pp. 8°.

Proposes an amendment to the Constitution, by which Senators shall be elected by direct vote of the people.

——— ——— Senate miscellaneous document no. 1. Resolution relative to election of United States Senators by direct vote of the people. Dec. 3, 1894. 1 page. 8°.

——— *54th Congress, 1st session.* Senate report no. 530. Report by Mr. Mitchell, from the Committee on Privileges and Elections, to whom was referred "Joint resolution proposing an amendment to the Constitution of the United States providing for the election of Senators by the votes of the qualified electors of the States." March 20, 1896. 11 pp. 8°.

Favors popular election.

UNITED STATES. *54th Congress, 1st session.* Senate report no. 530, part 2, Views of the minority, presented by Mr. Chandler. June 5, 1896. 3 pp. 8°.

Against popular election.

——— ——— House report no. 994. Election of the United States Senators. Report by Mr. Corliss, from the Committee on Election of President, Vice-President, and Representatives in Congress. March 30, 1896. 6 pp. 8°.

"The object of this resolution is to place in the hands of the people of the respective States the right, if they so elect by constitutional or legislative enactment, to afford the people the privilege of expressing by direct vote their will in the election of a United States Senator."
Views of the minority, pp. 5–6.
Favors popular election.

——— *55th Congress, 2d session.* House report no. 125. Election of United States Senators. Report by Mr. Corliss, from the Committee on Election of President, Vice-President, and Representatives in Congress. January 12, 1898. 6 pp. 8°.

Favors popular election.
Views of the minority, pp. 5–6.

——— *56th Congress, 1st session.* House report no. 88. Election of United States Senators. Report by Mr. Corliss, from the Committee on Election of President, Vice-President, and Representatives in Congress. January 22, 1900. 6 pp. 8°.

——— ——— House report no. 88. Part 2. *Same.* Views of the minority, presented by Mr. Rucker. February 7, 1900. 2 pp. 8°.

The majority report favors making optional with the states "the privilege of expressing by direct vote their will in the election of a United States Senator." The minority report advocates a constitutional amendment requiring that Senators "shall be elected by a direct vote of the people thereof for a term of six years."

——— *57th Congress, 1st session.* Senate document no. 399. Election of United States Senators by the people. List of principal speeches and reports made in Congress in recent years upon the proposed change. June 9, 1902. 2 pp. 8°.

——— ——— Senate document no. 406. Election of United States Senators by the people. List of principal speeches and reports made in Congress in recent years upon the proposed change in the method of electing Senators. Also, a reprint of principal documents relating to the subject of the election of United States Senators. Prepared in the Senate Library, by Clifford Warden.

Washington: Government printing office, 1902. 36 pp. 8°.

Cover-title.
Contains reprints of the following documents:
52d Congress, 1st session. Senate mis. doc. no. 89; 53d Congress, special session. Senate mis. doc. no. 31; 53d Congress, 2d session. Senate mis. doc. no. 97; 53d Congress, 2d session. Senate mis. doc. no. 104; 53d Congress, 3d session. Senate mis. doc. no. 1; 54th Congress, 2d session. Senate doc. no. 26; 57th Congress, 1st session. Senate doc. no. 404.

——— ——— House report no. 125. Election of United States Senators. Report by Mr. Corliss, from the Committee on Election of President, Vice-President, and Representatives in Congress. January 21, 1902. 6 pp. 8°.

Favors popular election.

VEST, George G. Election of United States Senators. Remarks. June 11, 1902.

(*In* Congressional record, vol. 45, pt. 7, pp. 6595, 6596.)
Against popular election.

WILSON, James. Speech on choosing the members of the Senate by electors; delivered, on 31st December, 1789, in the convention of Pennsylvania, assembled for the purpose of reviewing, altering, and amending the constitution of the state.

(*In his* Works, vol. 3, pp. 312–326. Philadelphia, 1804. 8°.)

WINCHESTER, Boyd. The House and the election of Senators.
(*In* The Arena, vol. 24, July, 1900, pp. 14–20.)
Unfavorable.

ZIEGLER, Edward D. Election of United States Senators. Remarks, April 12, 1900.
(*In* Congressional record, vol. 33, pt. 5, pp. 4114–4117.)
Favors popular election.

Senate Document No. 393, Fifty-ninth Congress, second session.

Mr. CLAPP presented the following

ABSTRACT OF LAWS RELATING TO THE ELECTION OF UNITED STATES SENATORS.

MARCH 2, 1907.—Ordered to be printed.

This list contains extract from the primary laws of the following States: Alabama, Arkansas, Florida, Louisiana, Mississippi, Oregon, South Carolina, Texas.

ALABAMA PRIMARY ELECTION LAW, 1903.

[Chapter 415.]

SEC. —. When the nomination of candidates for public office is made by any primary elections as herein specified, which is to be filled by the voters of the entire county, it shall be the duty of the chairman and secretary of the county executive committee or other governing authority representing the party for which the nomination is made, to certify same. If the office is to be filled by the voters of any district, whether senatorial, Congressional, or judicial, the certificate shall be made by the chairman and secretary of the committee or other governing authority of such district representing the party for which the nomination is made. Said certificate shall be filed as herein provided.

SEC. —. Whenever it shall be desired by the committee or governing authority of any political party to hold a primary election under the provisions of this act, said committee or governing authority for the State or political subdivision of the State where such officers are to be nominated shall, at least thirty days prior to such primary election, give public notice thereof by posting said notice at the courthouse door and by advertising in some newspaper published in such subdivision, if there be such newspaper.

ARKANSAS PRIMARY ELECTION LAW, 1895.

[Act 154.]

AN ACT To legalize primary elections.

SEC.—. That whenever any political party in this State shall by primary election nominate any persons to become candidates at any general election, regular or special, or before the legislature for United

States Senator, or for Congress, or any legislative, judicial, State, district, county, township, or municipal office, the said primary election shall be, and is hereby, made a legal election: *Provided*, This act shall not apply or be in force unless the county central committee of such party shall, twenty days before said primary election, file in the office of the county clerk of the county a certificate signed by the chairman, and attested by the secretary of such county central committee, certifying that said primary election will be held under the provisions of this act.

FLORIDA PRIMARY ELECTION LAW, 1901.

[Chapter 5014—No. 130.]

Be it enacted by the legislature of the State of Florida:

SEC. 1. That whenever the State, executive, or standing committee of any political party in this State or any Congressional district or county of this State, shall decide to take by primary election the sense of the members of said party as to the proper persons to be made delegates to any convention to he held for the purpose of that party, or to take the sense of the members of said party as to their choice for United States Senator, or as to the proper person or persons to be presented on behalf of that party to the voters of the State, Congressional district, or county, as the case may be, at any election to be held in the several counties under the laws of this State, at least thirty (30) days' notice shall be given in some newspaper published in the county or counties in which such election is to be held, or by posting a notice of such primary election in each ward or precinct of the county, if there be no newspaper published in said county, of the place where the voters belonging to that party are requested to meet for the purpose of acting in relation to the nomination of delegates or candidates as herein above stated.

Such notice shall also state the day on which such election is to be held, and the hours within which it is to be held, and the names of the inspectors appointed to hold such election and receive the votes that may be cast thereat, and make report and return thereof, and the time when such return and report shall be made to the committee directing such meeting to be held.

SEC.—. That the executive or standing committee, when they are petitioned by a majority of the qualified electors of the same party the committee belongs to, shall call and cause to be held a primary election as provided for in this act.

LOUISIANA PRIMARY ELECTION LAW, 1906.

[Act No. 49.]

SEC. —. *Be it enacted by the general assembly of the State of Louisiana*, That all political parties shall make all nominations for candidates for the United States Senate, Members of the House of Representatives in Congress, all State, district, parochial, and ward offi-

cers, members of the senate and house of representatives of the State of Louisiana, and of city and ward offices in all cities, towns, and villages by a direct primary election. That any nomination of any person for any of the aforementioned offices by any other method shall be illegal, and the secretary of state is prohibited from placing on the official ballot the name of any person as a candidate for any political party not nominated in accordance with the provisions of this act.

SEC. —. *Be it further enacted, etc.*, That the term of political party as used in this act is defined to be a political party that shall have cast at least ten per centum of the entire vote cast for governor at the last preceding State election.

SEC. —. *Be it further enacted, etc.*, That the State central committee of the political parties coming within the provisions of this act shall on the first Tuesday in October next preceding the date of the general State election held in the State for governor and all other State officials meet and issue a call for a primary election to nominate candidates for said political parties for governor or other State officers; that they shall select a date, which shall not be less than 70 and not more than 90 days prior to the date of said general State election. That in the year in which the general assembly is chosen which will elect a United States Senator the State central committees of the respective parties coming within the provisions of this act shall direct that a primary shall be held to select a candidate or candidates for the United States Senate at the same primary election at which nominations for State officers are voted for.

SEC. —. *Be it further enacted, etc.*, That no voter shall be allowed to take part in any primary who shall not have registered at least ten days prior to the date of the primary election held under this act. That seven days prior to every primary election the registrar of voters throughout the entire State shall make a complete list of all registered voters in every voting precinct in the parish, certify to the same, and within three days before the primary election deliver the same to the respective parish committees of the party holding the said primary election without any cost or charge whatsoever.

MISSISSIPPI PRIMARY ELECTION CODE, 1906.

[Chapter 111.]

Nominations for the office of United States Senator.—Nominations for the office of United States Senator shall be made at the primary election held throughout the State, next preceding the meeting of the legislature at which a United States Senator is to be elected. The names of the candidates for such nominations shall be placed upon the ballots prepared by the county committee.

OREGON PRIMARY ELECTION LAWS, 1905.

[Chapter One.]

SEC. —. At all general primary nominating elections next preceding the election of a Senator in Congress by the legislature of Oregon, there shall be placed upon the official primary nominating election ballots by each of the county clerks and clerks of the county

court the names of all candidates for the office of Senator in Congress for whose nominations petitions have been duly made and filed under the provisions of this law, the votes for which candidates shall be counted and certified to by the election judges and clerks in the same manner as the votes for other candidates; and records of the vote for such candidates shall be made out and sworn to by the board of canvassers of each county of the State and returned to the secretary of state at the same time and in like manner as they shall transmit other records and returns required by this law.

SEC. —. On the third day after the close of any primary nominating election, or sooner if all the returns be received, the county clerk, taking to his assistance two justices of the peace of the county of different parties, if practicable, shall proceed to open said returns and make abstracts of the votes. Such abstracts of votes for nominations for governor and for Senator in Congress shall be on one separate sheet for each political party and shall be immediately transmitted to the secretary of state in like manner as other election returns are transmitted to him. Such abstract of votes for nominations of each party for secretary of state, State printer, State treasurer, justice of the supreme court, Members of Congress, judges of the circuit court, district attorneys, and members of the legislative assembly, who are to be nominated from a district composed of more than one county, shall be on one sheet separately for each political party, and shall be forthwith transmitted to the secretary of state as required by section thirty of this act.

SOUTH CAROLINA PRIMARY ELECTION LAW 1902.

[Chapter Thirteen.]

SEC. —. Every political primary election held by any political party, organization, or association for the purpose of choosing candidates for office, or the election of delegates to conventions, shall be presided over and conducted in the manner prescribed by the rules of the political party, organization, or association holding such primary election by managers selected in the manner prescribed by such rules. Such managers shall, before entering upon the discharge of their duties, each take and subscribe an oath that he will fairly, impartially, and honestly conduct the same according to the provisions of this act and the rules of such party, organization, or association. Should one or more of the managers appointed to hold such election fail to appear on the day of election, the remaining manager or managers shall appoint others in their stead and administer to them the oath herein prescribed. The managers shall take the oath herein prescribed before a notary public or other officer authorized to administer oaths; but if no such officer can be conveniently had, the managers may administer the oath to each other. Such oaths shall, after being subscribed by the managers, be filed in the office of the clerk of court for the county in which such election shall be held within five days after such election

TEXAS PRIMARY ELECTION LAW 1905.

[Chapter Two.]

SEC. —. No official ballot, either for a primary or general election, shall have on it any symbol or device or any printed matter except that which is authorized by law, and no ballot cast in violation of this section shall be counted for any candidate. *Provided,* That the executive committee of the party for any county shall print on the primary ticket the names of all persons whose names, not less than thirty days prior to the day of the primary, shall be requested to be printed thereon as candidates for United States Senator, and the executive committee shall forward to each nominee of the party for State senator and representative voted for by the others of such county a certified statement of the vote cast in the county for each such candidate.

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60TH CONGRESS, 1st Session } SENATE { DOCUMENT No. 527

STATISTICS OF SAVINGS-BANK DEPOSITS FOR 1894 AND 1907

STATISTICS OF SAVINGS-BANK DEPOSITS 1894 AND 1907, EXCESS OF REVENUE OR EXPENDITURE, INTEREST-BEARING DEBT OF UNITED STATES, ETC., 1858-1907

PRESENTED BY MR. GALLINGER

MAY 29, 1908.—Ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

SAVINGS-BANK DEPOSITS.

1894	$1,777,833,242
1907	3,495,410,037

Official statistics.	Fiscal year.	Excess of revenue over expenditures.	Excess of expenditure over revenue.	Interest-bearing debt of the United States.	Wealth per capita.	Miles of railroad in operation.	Value of domestic exports.	Value of imports.	Wages paid in manufactures.	Product of manufacture.
Democratic Administration—Free trade.	1858		$26,955,461			26,968	$251,351,033	$263,338,654		
	1859		16,293,868			28,789	278,392,080	331,333,341		
	1860		7,075,998		$514	30,626	316,242,423	353,616,119	$378,878,966	$1,885,861,676
War of the rebellion	1861 to 1865		2,646,235,026	$2,221,311,918		165,569	850,991,827	1,277,195,897		
Period of Republican protection to American labor and industries.	1866		801,376	2,332,331,208		36,801	337,518,102	434,812,066		
	1867	$116,117,354		2,248,067,388		39,050	279,786,809	395,761,096		
	1868	6,095,320		2,202,088,728		42,229	269,389,900	357,436,440		
	1869	35,997,658		2,162,060,522		46,844	275,166,697	417,506,379		
	1870	102,302,828		2,046,455,722	780	52,922	376,616,473	435,958,408	775,584,343	4,232,325,442
	1871	91,270,711		1,934,696,750		60,301	428,398,908	520,223,684		
	1872	94,134,534		1,814,794,100		66,171	428,487,131	626,595,077		
	1873	36,938,348		1,710,483,950		70,268	505,033,439	642,136,210		
	1874		1,297,709	1,738,930,750		72,385	569,433,421	567,406,342		
	1875	9,397,378		1,722,676,300		74,096	499,284,100	533,005,436		
	1876	24,992,961		1,710,685,450		76,808	525,582,247	460,741,190		
	1877	29,934,801		1,711,888,500		79,082	589,670,224	451,323,126		
	1878	20,482,449		1,794,735,650		81,747	680,709,268	437,051,532		
	1879	5,374,253		1,797,643,700		86,556	698,340,790	445,777,775		
	1880	68,678,863		1,723,993,100	850	93,267	823,946,353	667,954,746	947,953,795	5,369,579,191
	1881	101,130,653		1,639,567,750		103,108	883,925,947	642,664,628		
	1882	145,543,810		1,463,810,400		114,677	733,239,732	724,639,574		
	1883	132,879,444		1,338,229,150		121,422	804,223,632	723,180,914		
	1884	104,393,625		1,226,563,850		125,345	724,964,852	667,697,693		
	1885	63,463,771		1,196,150,950		128,320	726,682,946	577,527,329		
	1886	93,956,588		1,146,014,100		136,338	665,964,529	635,436,136		
	1887	103,471,097		1,021,692,350		149,214	703,022,923	692,319,768		
	1888	119,612,116		950,522,500		156,114	683,862,104	723,957,114		
	1889	105,053,443		829,853,990		161,276	730,282,609	745,131,652		
	1890	105,344,496		725,313,110	1,038	166,703	845,293,828	789,310,409	1,891,228,321	9,372,437,282
	1891	37,239,762		610,529,120		170,729	872,270,288	844,916,196		
	1892	9,914,453		585,029,330		175,170	1,015,732,011	827,402,462		
	1893	2,341,674		585,037,100		177,516	831,030,785	866,400,922		

SAVINGS-BANK DEPOSITS—Continued.

Official statistics.	Fiscal year.	Excess of revenue over expenditures.	Excess of expenditure over revenue.	Interest-bearing debt of the United States.	Wealth per capita.	Miles of railroad in operation.	Value of domestic exports.	Value of imports.	Wages paid in manufactures.	Product of manufacture.
Democratic administration	1894	Free trade	$69,803,260	$635,041,890	.....	179,415	$869,204,937	$654,994,622	.....	.....
	1895	do	42,805,223	716,202,060	.....	181,115	793,392,599	731,969,965	.....	.....
	1896	do	25,203,245	847,363,890	.....	182,769	863,200,487	779,724,674	.....	.....
	1897	do	18,052,454	847,365,130	.....	184,591	1,032,007,603	764,730,412	.....	.....
Ten years of Republican protection and prosperity.	1898	Spanish war	38,047,247	847,367,470	.....	186,810	1,210,291,913	616,049,654	.....	.....
	1899	do	89,111,559	1,046,048,750	.....	190,818	1,203,931,222	697,148,489	.....	.....
	1900	$79,527,060	.....	1,023,478,860	$1,164	194,262	1,370,763,571	849,941,184	$2,328,691,254	$13,014,287,498
	1901	77,717,984	.....	987,141,040	.....	198,743	1,460,462,806	823,172,165	.....	.....
	1902	91,287,375	.....	931,070,340	.....	202,938	1,355,481,861	903,320,948	.....	.....
	1903	54,297,667	.....	914,541,410	.....	207,335	1,392,231,302	1,025,719,237	.....	.....
	1904	.....	a 41,770,571	895,157,440	1,310	212,394	1,435,179,017	991,087,371	.....	.....
	1905	.....	a 23,004,228	895,158,340	.....	217,341	1,491,744,641	1,117,513,071	2,611,540,532	14,802,147,807
	1906	25,669,322	25,669,322	895,159,140	.....	222,635	1,717,953,382	1,226,562,446	.....	.....
	1907	84,236,586	.....	858,685,510	.....	228,568	1,855,718,034	1,434,421,425	.....	.....

a These deficits were caused by Panama Canal expenditures.

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60TH CONGRESS, 1st Session | SENATE | DOCUMENT No. 528

EXPENDITURES OF THE UNITED STATES GOVERNMENT 1791–1907

TABLE COMPILED BY THE DIRECTOR OF THE CENSUS FOR THE COMMITTEE ON APPROPRIATIONS OF THE HOUSE OF REPRESENTATIVES

PRESENTED BY MR. CULBERSON

MAY 29, 1908—Ordered to be printed

WASHINGTON
GOVERNMENT PRINTING OFFICE
1908

INTRODUCTORY NOTE.

At the request of the Committee on Appropriations of the House of Representatives the Director of the Census has compiled the following table from data secured from the Treasury Department showing the actual expenditures of the Federal Government from 1791 to 1907, by fiscal years and by the four-year periods most nearly synchronous with the several administrations. The expenditures have been classified under two general heads, those paid from general revenues, or taxes, and those paid from postal revenues. The former are further subdivided into seven groups.

In further compliance with the request of the committee, the per capita expenditures for each four-year period have been computed, and also for the years 1906–7. In making these per capita computations for intercensal years the census method of computing population has been adopted, viz, that the increased population of each year is equal to one-tenth of the decennial increase shown by a preceding and succeeding census.

EXPENDITURES BY FISCAL YEARS AND FOUR-YEAR PERIODS, 1791-1907

Comparative statement of specified expenditures of the National Government by fiscal years and periods, 1789 to 1906.

	1789.[a]	1790.[a]	1791.[b]	1792.[b]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department			$632,804	$1,100,702	$1,733,506	$0.21
Navy Department						
Pensions			175,814	109,243	285,057	.03
Indian service			27,000	13,649	40,649	
Interest on debt			1,177,863	2,373,611	3,551,474	.43
Post-Office						
Miscellaneous			1,083,971	4,672,664	5,756,635	.70
Total paid from general revenues			3,097,453	8,269,869	11,367,322	1.37
B. Paid from postal revenues			36,697	54,531	91,228	.01
Total expenditures of National Government			3,134,150	8,324,400	11,458,550	1.38
Total expenditures for Post-Office			36,697	54,531	91,228	.01
National surplus			1,312,498	[c] 4,599,909	[c] 3,287,411	[c] .40

[a] No report. [b] Calendar year. [c] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1793.[a]	1794.[a]	1795.[a]	1796.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$1,130,249	$2,639,098	$2,480,910	$1,260,264	$7,510,521	$0.41
Navy Department		61,409	410,562	274,784	746,755	.04
Pensions	80,088	81,399	68,673	100,844	331,004	.02
Indian service	27,283	13,042	23,476	113,564	177,365	.01
Interest on debt	2,097,859	2,752,523	2,947,059	3,239,348	11,036,789	.61
Post-Office						
Miscellaneous	511,451	750,351	1,378,921	801,847	3,442,570	.19
Total paid from general revenues	3,846,930	6,297,822	7,309,601	5,790,651	23,245,004	1.28
B. Paid from postal revenues	72,040	89,973	117,893	131,572	411,478	.02
Total expenditures of National Government	3,918,970	6,387,795	7,427,494	5,922,223	23,656,482	1.30
Total expenditures for Post-Office	72,040	89,973	117,893	131,572	411,478	.02
National surplus	805,993	[b] 865,917	[b] 1,195,066	2,586,879	1,331,889	.07

[a] Calendar year.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1797.[a]	1798.[a]	1799.[a]	1800.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$1,039,402	$2,009,522	$2,466,947	$2,560,879	$8,076,750	$0.40
Navy Department	382,632	1,381,348	2,858,082	3,448,716	8,070,778	.40
Pensions	92,257	104,845	95,444	64,131	356,677	.02
Indian service	62,397	16,470	20,302	31	99,200	.....
Interest on debt	3,172,517	2,955,876	2,815,651	3,402,601	12,346,645	.61
Post-Office	.....	.....	.....	.....	.....	.....
Miscellaneous	1,259,422	1,139,525	1,039,392	1,337,613	4,775,952	.23
Total paid from general revenues	6,008,627	7,607,586	9,295,818	10,813,971	33,726,002	1.65
B. Paid from postal revenues	150,114	179,084	188,038	213,994	731,230	.04
Total expenditures of National Government	6,158,741	7,786,670	9,483,856	11,027,965	34,457,232	1.69
Total expenditures for Post-Office	150,114	179,084	188,038	213,994	731,230	.04
National surplus	2,680,154	292,909	[b] 1,749,005	34,778	1,258,836	.06

[a] Calendar year.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1801.[a]	1802.[a]	1803.[a]	1804.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$1,672,944	$1,179,148	$822,056	$875,424	$4,549,572	$0.20
Navy Department	2,111,424	915,562	1,215,231	1,189,833	5,432,050	.23
Pensions	73,533	85,440	62,902	80,093	301,968	.01
Indian service	9,000	94,000	60,000	116,500	279,500	.01
Interest on debt	4,411,830	4,239,172	3,949,462	4,185,049	16,785,513	.72
Post-Office						
Miscellaneous	1,114,768	1,462,930	1,842,636	2,191,009	6,611,343	.29
Total paid from general revenues	9,393,499	7,976,252	7,952,287	8,637,908	33,959,946	1.47
B. Paid from postal revenues	255,151	281,916	322,364	337,502	1,196,933	.05
Total expenditures of National Government	9,648,650	8,258,168	8,274,651	8,975,410	35,156,879	1.52
Total expenditures for Post-Office	255,151	281,916	322,364	337,502	1,196,933	.05
National surplus	3,541,831	7,019,542	3,111,811	3,188,400	16,861,584	.73

[a] Calendar year.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1805.[a]	1806.[a]	1807.[a]	1808.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$712,781	$1,224,355	$1,288,686	$2,900,834	$6,126,656	$0.23
Navy Department	1,597,500	1,649,642	1,722,064	1,884,068	6,853,274	.26
Pensions	81,855	81,875	70,500	82,576	316,806	.01
Indian service	196,500	234,200	205,425	213,575	849,700	.03
Interest on debt	2,657,114	3,368,969	3,369,578	2,557,074	11,952,735	.46
Post-Office						
Miscellaneous	3,768,599	2,890,137	1,697,898	1,423,286	9,779,920	.37
Total paid from general revenues	9,014,349	9,449,178	8,354,151	9,061,413	35,879,091	1.37
B. Paid from postal revenues	377,367	417,234	453,885	462,828	1,711,314	.07
Total expenditures of National Government	9,391,716	9.866,412	8,808,036	9,524,241	37,590,405	1.43
Total expenditures for Post-Office	377,367	417,234	453,885	462,828	1,711,314	.07
National surplus	4,546,344	6,110,754	8,043,868	7,999,249	26,700,215	1.02

[a] Calendar year.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1809.[a]	1810.[a]	1811.[a]	1812.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$3,345,772	$2,294,324	$2,032,829	$11,817,798	$19,490,723	$0.66
Navy Department	2,427,759	1,654,244	1,965,566	3,959,365	10,006,934	.34
Pensions	87,833	83,744	75,044	91,402	338,023	.01
Indian service	337,504	177,625	151,875	277,845	944,849	.03
Interest on debt	2,866,075	3,163,671	2,585,436	2,451,273	11,066,455	.38
Post-Office						
Miscellaneous	1,215,804	1,101,145	1,367,291	1,683,088	5,367,328	.18
Total paid from general revenues	10,280,747	8,474,753	8,178,041	20,280,771	47,214,312	1.60
B. Paid from postal revenues	498,012	495,969	499,099	540,165	2,033,245	.06
Total expenditures of National Government	10,778,759	8,970,722	8,677,140	20,820,936	49,247,557	1.67
Total expenditures for Post-Office	498,012	495,969	499,099	540,165	2,033,245	.06
National surplus	[b] 2,507,274	909,461	6,244,594	[b] 10,479,639	[b] 5,832,858	[b] .20

[a] Calendar year.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1813.[a]	1814.[a]	1815.[a]	1816.[a]	Total.	Per capita
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$19,652,013	$20,350,807	$14,794,294	$16,012,097	$70,809,211	$2.13
Navy Department	6,446,600	7,311,291	8,660,001	3,908,278	26,326,170	.80
Pensions	86,990	90,164	69,656	188,804	435,614	.01
Indian service	167,358	167,395	530,750	274,512	1,140,015	.03
Interest on debt	3,599,455	4,593,239	5,990,090	7,822,924	22,005,708	.66
Post-Office						
Miscellaneous	1,729,436	2,208,030	2,898,870	2,989,741	9,826,077	.30
Total paid from general revenues	31,681,852	34,720,926	32,943,661	31,196,356	130,542,795	3.92
B. Paid from postal revenues	681,012	727,126	748,121	804,422	2,960,681	.09
Total expenditures of National Government	32,362,864	35,448,052	33,691,782	32,000,778	133,503,476	4.01
Total expenditures for Post-Office	681,012	727,126	748,121	804,422	2,960,681	.09
National surplus	[b] 17,341,442	[b] 23,539,300	[b] 17,246,744	16,480,629	[b] 41,646,857	[b] 1.25

[a] Calendar year.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1817.[a]	1818.[a]	1819.[a]	1820.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$8,004,237	$5,622,715	$6,506,300	$2,630,393	$22,763,645	$0.61
Navy Department	3,314,598	2,953,695	3,847,641	4,387,990	14,503,924	.39
Pensions	297,374	890,720	2,415,940	3,208,376	6,812,410	.18
Indian service	319,464	505,704	463,181	315,750	1,604,099	.04
Interest on debt	4,536,283	6,209,954	5,211,731	5,151,004	21,108,972	.56
Post-Office						
Miscellaneous	3,518,936	3,835,840	3,067,211	2,592,022	13,014,009	.35
Total paid from general revenues	19,990,892	20,018,628	21,512,004	18,285,535	79,807,059	2.15
B. Paid from postal revenues	916,515	1,035,832	1,117,861	1,160,926	4,231,134	.11
Total expenditures of National Government	20,907,407	21,054,460	22,629,865	19,446,461	84,038,193	2.26
Total expenditures for Post-Office	916,515	1,035,832	1,117,861	1,160,926	4,231,134	.11
National surplus	13,108,158	1,566,543	3,091,370	[b] 4,444,865	17,321,206	.47

[a] Calendar year.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1821.[a]	1822.[a]	1823.[a]	1824.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$4,461,292	$3,111,981	$3,096,924	$3,340,940	$14,011,137	$0.34
Navy Department	3,319,243	2,224,459	2,503,766	2,904,581	10,952,049	.26
Pensions	242,817	1,948,199	1,780,589	1,499,327	5,470,932	.13
Indian service	477,005	575,008	380,782	429,988	1,862,783	.04
Interest on debt	5,126,074	5,172,789	4,922,475	4,943,558	20,164,896	.48
Post-Office						
Miscellaneous	2,223,122	1,967,996	2,022,094	7,155,309	13,368,521	.32
Total paid from general revenues	15,849,553	15,000,432	14,706,630	20,273,703	65,830,318	1.58
B. Paid from postal revenues	1,182,923	1,156,866	1,169,885	1,169,199	4,678,873	.11
Total expenditures of National Government	17,032,476	16,157,298	15,876,515	21,442,902	70,509,191	1.69
Total expenditures for Post-Office	1,182,923	1,156,866	1,169,885	1,169,199	4,678,873	.11
National surplus	[b]1,276,173	5,231,996	5,834,036	[b]892,490	8,897,369	.21

[a] Calendar year.

[b] Deficit

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1825.[a]	1826.[a]	1827.[a]	1828.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$3,659,914	$3,943,194	$3,948,978	$4,145,545	$15,697,631	$0.33
Navy Department	3,049,084	4,218,902	4,263,877	3,918,787	15,450,650	.33
Pensions	1,308,811	1,556,594	976,139	850,573	4,692,117	.10
Indian service	724,106	743,448	750,625	705,085	2,923,264	.06
Interest on debt	4,366,757	3,975,543	3,486,072	3,098,800	14,927,172	.32
Post-Office						
Miscellaneous	2,748,545	2,600,178	2,713,477	3,676,052	11,738,252	.24
Total paid from general revenues	15,857,217	17,037,859	16,139,168	16,394,842	65,429,086	1.39
B. Paid from postal revenues	1,206,585	1,309,316	1,373,239	1,623,333	5,512,473	.12
Total expenditures of National Government	17,063,802	18,347,175	17,512,407	18,018,175	70,941,559	1.51
Total expenditures for Post-Office	1,206,585	1,309,316	1,373,239	1,623,333	5,512,473	.12
National surplus	5,983,641	8,222,575	6,827,197	8,368,787	29,402,200	.63

[a] Calendar year.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1829.[a]	1830.[a]	1831.[a]	1832.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$4,724,291	$4,767,129	$4,841,836	$5,446,035	$19,779,291	$0.38
Navy Department	3,308,746	3,239,429	3,856,183	3,956,370	14,360,728	.28
Pensions	949,594	1,363,297	1,170,665	1,184,423	4,667,979	.09
Indian service	576,345	622,262	930,738	1,352,420	3,481,765	.07
Interest on debt	2,542,843	1,912,575	1,373,749	772,561	6,601,728	.13
Post-Office						
Miscellaneous	3,082,235	3,237,416	3,064,646	4,577,141	13,961,438	.27
Total paid from general revenues	15,184,054	15,142,108	15,237,817	17,288,950	62,852,929	1.20
B. Paid from postal revenues	1,782,132	1,932,708	1,936,123	2,266,172	7,917,135	.15
Total expenditures of National Government	16,966,186	17,074,816	17,173,940	19,555,122	70,770,064	1.35
Total expenditures for Post-Office	1,782,132	1,932,708	1,936,123	2,266,172	7,917,135	.15
National surplus	9,643,574	9,702,008	13,289,004	14,578,501	47,213,087	.09

[a] Calendar year.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1833.[a]	1834.[a]	1835.[a]	1836.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$6,704,019	$5,696,189	$5,759,157	$11,747,345	$29,906,710	$0.51
Navy Department	3,901,357	3,956,261	3,864,939	5,807,718	17,530,275	.30
Pensions	4,589,152	3,364,285	1,954,711	2,882,798	12,790,946	.22
Indian service	1,802,981	1,003,953	1,706,445	5,037,023	9,550,402	.16
Interest on debt	303,797	202,153	57,863		563,813	.01
Post-Office						
Miscellaneous	5,716,246	4,404,729	4,229,699	5,393,280	19,743,954	.33
Total paid from general revenues	23,017,552	18,627,570	17,572,814	30,868,164	90,086,100	1.52
B. Paid from postal revenues	2,930,415	2,910,605	2,757,350	2,841,766	11,440,136	.20
Total expenditures of National Government	25,947,967	21,538,175	20,330,164	33,709,930	101,526,236	1.72
Total expenditures for Post-Office	2,930,415	2,910,605	2,757,350	2,841,766	11,440,136	.20
National surplus	10,930,874	3,164,365	17,857,274	19,958,632	51,911,145	.88

[a] Calendar year.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1837.[a]	1838.[a]	1839.[a]	1840.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$13,682,731	$12,807,224	$8,916,996	$7,095,267	$42,592,218	$0.65
Navy Department	6,646,[illegible]15	6,131,581	6,182,2[illegible]4	6,113,897	25,074,687	.38
Pensions	2,672,162	2,156,057	3,142,751	2,603,562	10,574,532	.16
Indian service	4,348,036	5,504,191	2,528,917	2,331,795	14,712,939	.22
Interest on debt	.....	14,997	399,834	174,598	589,429	.01
Post-Office	.....	.....	.....	.....	.....	.....
Miscellaneous	9,893,370	7,160,665	5,725,991	5,995,399	28,775,425	.44
Total paid from general revenues	37,243,214	33,864,715	26,896,783	24,314,518	122,319,230	1.86
B. Paid from postal revenues	3,288,319	4,430,662	4,636,536	4,718,236	17,073,753	.26
Total expenditures of National Government	40,531,533	38,295,377	31,533,319	29,032,754	139,392,983	2.12
Total expenditures for Post-Office	3,288,319	4,430,662	4,636,536	4,718,236	17,073,753	.26
National surplus	[b]12,289,061	[b]7,562,153	4,585,967	[b]4,834,403	[b]20,099,650	[b].31

[a] Calendar year.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1841.[a]	1842-43.[b]	1844.[c]	1845.[c]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$8,801,610	$9,519,110	$5,218,184	$5,746,291	$29,285,195	$0.31
Navy Department	6,001,077	12,124,954	6,498,199	6,297,178	30,921,408	.33
Pensions	2,388,435	2,217,972	2,032,009	2,400,788	9,039,204	.10
Indian service	2,514,837	1,777,471	1,256,532	1,539,352	7,088,192	.07
Interest on debt	284,978	1,297,134	1,833,452	1,040,458	4,456,022	.05
Post-Office	[d] 40,000	[b] 75,000	.....	.....	115,000	.....
Miscellaneous	6,450,881	9,903,338	5,645,184	5,911,761	27,911,164	.30
Total paid from general revenues	26,481,818	36,914,979	22,483,560	22,935,828	108,816,185	1.15
B. Paid from postal revenues	4,407,726	8,843,075	4,237,288	4,289,842	21,777,931	.23
Total expenditures of National Government	30,889,544	45,758,054	26,720,848	27,225,670	130,594,116	1.38
Total expenditures for Post-Office	4,447,726	8,918,075	4,237,288	4,289,842	21,892,931	.23
National surplus	[e] 9,621,658	[e] 8,707,780	6,837,148	7,034,278	[e] 4,458,012	[e] .05

[a] Calendar year.
[b] Report for January 1, 1842, to June 30, 1843.
[c] Fiscal year ending June 30.
[d] Report for January 1 to September 30, 1841.
[e] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1846.[a]	1847.[a]	1848.[a]	1849.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$10,413,371	$35,840,030	$27,688,334	$14,558,473	$88,500,208	$1.02
Navy Department	6,455,014	7,900,636	9,408,476	9,786,706	33,550,832	.39
Pensions	1,811,098	1,744,884	1,227,496	1,328,868	6,112,346	.07
Indian service	1,027,694	1,430,411	1,252,297	1,374,161	5,084,563	.06
Interest on debt	842,723	1,119,215	2,390,766	3,565,536	7,918,240	.09
Post-Office	810,231	536,299	22,222	.....	1,368,752	.02
Miscellaneous	5,901,052	6,349,309	5,628,630	12,885,334	30,764,325	.36
Total paid from general revenues	27,261,183	54,920,784	47,618,221	43,499,078	173,299,266	2.00
B. Paid from postal revenues	3,487,199	3,880,309	4,555,211	4,705,177	16,627,896	.19
Total expenditures of National Government	30,748,382	58,801,093	52,173,432	48,204,255	189,927,162	2.19
Total expenditures for Post-Office	4,297,431	4,416,608	4,577,433	4,705,177	17,996,649	.21
National surplus	2,438,785	[b] 28,453,381	[b] 11,989,521	[b] 12,778,001	[b] 50,782,118	[b] .59

[a] Fiscal year ending June 30.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1850.[a]	1851.[a]	1852.[a]	1853.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$9,687,025	$12,161,965	$8,521,506	$9,910,499	$40,280,995	$0.41
Navy Department	7,904,725	8,880,581	8,918,842	11,067,790	36,771,938	.38
Pensions	1,866,886	2,293,377	2,401,859	1,756,306	8,318,428	.09
Indian service	1,663,591	2,829,802	3,043,576	3,880,494	11,417,463	.12
Interest on debt	3,782,393	3,696,761	4,000,298	3,665,833	15,145,285	.15
Post-Office			1,041,444	1,753,750	2,795,194	.03
Miscellaneous	16,043,763	17,888,092	16,462,727	15,709,318	66,104,800	.68
Total paid from general revenues	40,948,383	47,751,478	44,390,252	47,743,990	180,834,103	1.85
B. Paid from postal revenues	5,499,985	6,410,605	5,184,527	5,240,724	22,335,841	.23
Total expenditures of National Government	46,448,368	54,162,083	49,574,779	52,984,714	203,169,944	2.08
Total expenditures for Post-Office	5,499,985	6,410,604	6,225,971	6,994,475	25,131,035	.26
National surplus	2,644,506	4,803,561	5,456,563	13,843,043	26,747,673	.27

[a] Fiscal year ending June 30.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1854.[a]	1855.[a]	1856.[a]	1857.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$11,722,283	$14,648,074	$16,963,160	$19,159,151	$62,492,668	$0.56
Navy Department	10,790,096	13,327,095	14,074,835	12,651,695	50,843,721	.46
Pensions	1,232,665	1,477,612	1,296,230	1,310,380	5,316,887	.05
Indian service	1,550,339	2,772,991	2,644,264	4,354,419	11 322,013	.10
Interest on debt	3,070,927	2,314,465	1,953,822	1,593,265	8,932,479	.09
Post-Office	3,171,696	3,078,814	3,199,118	3,616,883	13,066,511	.12
Miscellaneous	23,500,449	21,011,612	28,594,921	24,948,616	98,055,598	.88
Total paid from general revenues	55,038,455	58,630,663	68,726,350	67,634,409	250,029,877	2.25
B. Paid from postal revenues	6,255,586	6,642,136	6,920,822	7,353,952	27,172,496	.24
Total expenditures of National Government	61,294,041	65,272,799	75,647,172	74,988,361	277,202,373	2.50
Total expenditures for Post-Office	9,427,282	9,720,950	10,119,939	10,970,835	40,239,006	.36
National surplus	18,761,886	6,719,912	5,330,349	1,330,904	32,143,051	.29

[a] Fiscal year ending June 30.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1858.[a]	1859.[a]	1860.[a]	1861.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$25,679,122	$23,154,720	$16,472,203	$23,001,531	$88,307,576	$0.71
Navy Department	14,053,265	14,690,928	11,514,650	12,387,156	52,645,999	.42
Pensions	1,219,768	1,222,223	1,100,802	1,034,600	4,577,393	.04
Indian service	4,978,266	3,490,535	2,991,121	2,865,481	14,325,403	.12
Interest on debt	1,652,056	2,637,650	3,144,120	4,034,157	11,467,983	.09
Post-Office	4,748,923	4,814,483	9,901,546	5,170,895	24,635,847	.20
Miscellaneous	21,651,093	18,983,061	18,076,433	18,156,393	76,866,980	.62
Total paid from general revenues	73,982,493	68,993,600	63,200,875	66,650,213	272,827,181	2.20
B. Paid from postal revenues	7,486,793	7,968,484	8,518,068	8,349,296	32,322,641	.26
Total expenditures of National Government	81,469,286	76,962,084	71,718,943	74,999,509	305,149,822	2.46
Total expenditures for Post-Office	12,235,716	12,782,968	18,419,613	13,520,191	56,958,488	.46
National surplus	[b] 27,327,127	[b] 16,216,492	[b] 7,146,276	[b] 25,173,913	[b] 75,863,808	[b] .61

[a] Fiscal year ending June 30.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1862.[a]	1863.[a]	1864.[a]	1865.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$389,173,562	$603,314,412	$690,391,049	$1,030,690,400	$2,713,569,423	$19.99
Navy Department	42,640,353	63,261,235	85,704,964	122,617,434	314,223,986	2.31
Pensions	852,171	1,078,513	4,985,474	16,347,621	23,263,779	.17
Indian service	2,327,948	3,152,033	2,629,976	5,059,361	13,169,318	.09
Interest on debt	13,190,345	24,729,701	53,685,421	77,395,090	169,000,557	1.25
Post-Office	3,561,729	749,314	999,980	.....	5,311,023	.04
Miscellaneous	17,824,134	22,449,068	26,572,237	42,989,383	109,834,822	.81
Total paid from general revenues	469,570,242	718,734,276	864,969,101	1,295,099,289	3,348,372,908	24.67
B. Paid from postal revenues	8,299,820	11,163,790	12,438,254	14,556,159	46,458,023	.34
Total expenditures of National Government	477,870,062	729,898,066	877,407,355	1,309,655,448	3,394,830,931	25.01
Total expenditures for Post-Office	11,861,549	11,913,104	13,438,234	14,556,159	51,769,046	.38
National surplus	[b] 417,650,980	[b] 606,639,331	[b] 621,556,130	[b] 973,068,131	[b] 2,618,914,572	[b] 19.29

[a] Fiscal year ending June 30.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1866.[a]	1867.[a]	1868.[a]	1869.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$283,154,676	$95,224,416	$123,246,649	$78,501,990	$580,127,731	$3.94
Navy Department	43,285,662	31,034,011	25,775,503	20,000,758	120,095,934	.82
Pensions	15,605,550	20,936,552	23,782,387	28,476,622	88,801,111	.60
Indian service	3,295,729	4,642,532	4,100,682	7,042,923	19,081,866	.13
Interest on debt	133,067,625	143,781,592	140,424,045	130,694,243	547,967,505	3.72
Post-Office	7,048	3,766,666	3,021,144	5,398,607	12,193,465	.08
Miscellaneous	40,606,066	47,343,557	49,988,724	51,075,455	189,013,802	1.29
Total paid from general revenues	519,022,356	346,729,326	370,339,134	321,190,598	1,557,281,414	10.59
B. Paid from postal revenues	14,436,986	15,297,027	16,292,601	18,344,510	64,371,124	.44
Total expenditures of National Government	533,459,342	362,026,353	386,631,735	339,535,108	1,621,652,538	11.02
Total expenditures for Post-Office	14,444,034	19,063,694	19,313,744	23,743,118	76,564,590	.52
National surplus	927,208	116,117,354	6,095,320	35,997,659	159,137,541	1.08

[a] Fiscal year ending June 30.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1870.[a]	1871.[a]	1872.[a]	1873.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$57,655,676	$35,799,992	$35,372,157	$46,323,138	$175,150,963	$1.09
Navy Department	21,780,230	19,431,027	21,249,810	23,526,257	85,987,324	.53
Pensions	28,340,202	34,443,895	28,533,403	29,359,427	120,676,927	.75
Indian service	3,407,938	7,426,998	7,061,729	7,951,705	25,848,370	.16
Interest on debt	129,235,498	125,576,566	117,357,840	104,750,688	476,920,592	2.96
Post-Office	3,644,579	4,431,250	5,175,000	5,490,475	18,741,304	.11
Miscellaneous	49,592,882	56,050,666	55,809,757	67,837,635	229,290,940	1.42
Total paid from general revenues	293,657,005	283,160,394	270,559,696	285,239,325	1,132,616,420	7.03
B. Paid from postal revenues	19,772,221	20,037,045	21,915,426	22,996,742	84,721,434	.53
Total expenditures of National Government	313,429,226	303,197,439	292,475,122	308,236,067	1,217,337,854	7.55
Total expenditures for Post-Office	23,416,800	24,468,295	27,090,426	28,487,217	103,462,738	.64
National surplus	102,302,829	91,270,711	94,134,534	36,938,349	324,646,423	2.01

[a] Fiscal year ending June 30.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1874.[a]	1875.[a]	1876.[a]	1877.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$42,313,927	$41,120,646	$38,070,889	$37,082,736	$158,588,198	$0.88
Navy Department	30,932,587	21,497,626	18,963,310	14,959,935	86,353,458	.48
Pensions	29,038,415	29,456,216	28,257,396	27,963,752	114,715,779	.64
Indian service	6,692,462	8,384,657	5,966,558	5,277,007	26,320,684	.15
Interest on debt	107,119,815	103,093,545	100,243,271	97,124,512	407,581,143	2.27
Post-Office	6,183,835	8,234,381	6,242,731	6,816,680	27,477,627	.15
Miscellaneous	78,957,759	62,836,322	67,356,930	52,109,853	261,260,864	1.45
Total paid from general revenues	301,238,800	274,623,393	265,101,085	241,334,475	1,082,297,753	6.02
B. Paid from postal revenues	26,471,072	26,791,361	28,644,197	27,531,585	109,438,215	.61
Total expenditures of National Government	327,709,872	301,414,754	293,745,282	268,866,060	1,191,735,968	6.63
Total expenditures for Post-Office	32,654,907	35,025,742	34,886,928	34,348,265	136,915,842	.76
National surplus	[b]1,297,710	9,397,379	24,965,500	39,666,167	72,731,336	.41

[a] Fiscal year ending June 30.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1878.[a]	1879.[a]	1880.[a]	1881.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$32,154,148	$40,425,661	$38,116,916	$40,466,461	$151,163,186	$0.76
Navy Department	17,365,301	15,125,127	13,536,985	15,686,672	61,714,085	.31
Pensions	27,137,019	35,121,483	56,777,174	50,059,280	169,094,956	.85
Indian service	4,629,280	5,206,109	5,945,457	6,514,161	22,295,007	.11
Interest on debt	102,500,875	105,327,949	95,757,575	82,508,741	386,095,140	1.95
Post-Office	6,124,886	5,665,672	4,172,795	5,128,853	21,092,206	.11
Miscellaneous	47,052,818	60,075,883	50,540,735	59,287,471	216,956,907	1.09
Total paid from general revenues	236,964,327	266,947,884	264,847,637	259,651,639	1,028,411,487	5.18
B. Paid from postal revenues	29,277,517	30,041,982	33,315,480	36,785,398	129,420,377	.65
Total expenditures of National Government	266,241,844	296,989,866	298,163,117	296,437,037	1,157,831,864	5.84
Total expenditures for Post-Office	35,402,403	35,707,655	37,488,274	41,914,251	150,512,583	.76
National surplus	20,482,450	5,374,253	68,678,863	101,130,654	195,666,220	.99

[a] Fiscal year ending June 30.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1882.[a]	1883.[a]	1884.[a]	1885.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$43,570,494	$48,911,383	$39,429,603	$42,670,578	$174,582,058	$0.80
Navy Department	15,032,047	15,283,437	17,292,601	16,021,080	63,629,165	.29
Pensions	61,345,194	66,012,574	55,429,228	56,102,267	238,889,263	1.10
Indian service	9,736,747	7,362,591	6,475,999	6,552,495	30,127,832	.14
Interest on debt	71,077,207	59,160,131	54,578,379	51,386,256	236,201,973	1.08
Post-Office	716,145	1,157,776	915,868	6,530,772	9,320,561	.04
Miscellaneous	56,503,606	67,520,246	70,004,566	80,963,487	274,991,905	1.26
Total paid from general revenues	257,981,440	265,408,138	244,126,244	260,226,935	1,027,742,757	4.71
B. Paid from postal revenues	41,876,410	45,508,692	43,325,959	42,560,844	173,271,905	.79
Total expenditures of National Government	299,857,850	310,916,830	287,452,203	302,787,779	1,201,014,662	5.51
Total expenditures for Post-Office	42,592,555	46,666,469	44,241,827	49,091,616	182,592,467	.84
National surplus	145,543,811	132,879,444	104,393,625	63,463,771	446,280,651	2.05

[a] Fiscal year ending June 30.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1886.[a]	1887.[a]	1888.[a]	1889.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$34,324,153	$38,561,026	$38,522,436	$44,435,271	$155,842,886	$0.65
Navy Department	13,907,887	15,141,127	16,926,438	21,378,809	67,354,261	.28
Pensions	63,404,864	75,029,102	80,288,509	87,624,779	306,347,254	1.29
Indian service	6,099,158	6,194,523	6,249,308	6,892,208	25,435,197	.11
Interest on debt	50,580,146	47,741,577	44,715,007	41,001,484	184,038,214	.77
Post-Office	9,235,585	7,740,422	4,264,282	5,136,865	26,377,154	.11
Miscellaneous	64,931,345	77,524,403	68,687,979	75,527,200	286,670,927	1.20
Total paid from general revenues	242,483,138	267,932,180	259,653,959	281,996,616	1,052,065,893	4.42
B. Paid from postal revenues	43,948,423	48,837,609	52,695,177	56,175,611	201,656,820	.85
Total expenditures of National Government	286,431,561	316,769,789	312,349,136	338,172,227	1,253,722,713	5.27
Total expenditures for Post-Office	53,184,008	56,578,032	56,959,458	61,312,476	228,033,974	.96
National surplus	93,956,588	103,471,098	119,612,116	105,053,443	422,093,245	1.77

[a] Fiscal year ending June 30.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1890.[a]	1891.[a]	1892.[a]	1893.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$44,582,838	$48,720,065	$46,895,456	$49,641,774	$189,840,133	$0.72
Navy Department	22,006,206	26,113,897	29,174,139	30,136,084	107,430,326	.42
Pensions	106,936,855	124,415,951	134,583,053	159,357,558	525,293,417	2.03
Indian service	6,708,047	8,527,469	11,150,578	13,345,347	39,731,441	.15
Interest on debt	36,099,284	37,547,135	23,378,116	27,264,392	124,288,927	.48
Post-Office	8,119,488	6,085,654	5,739,869	7,562,024	27,507,035	.11
Miscellaneous	73,283,769	103,962,514	94,102,119	96,170,775	367,519,177	1.42
Total paid from general revenues	297,736,487	355,372,685	345,023,330	383,477,954	1,381,610,456	5.34
B. Paid from postal revenues	60,882,098	65,931,786	70,930,476	75,896,993	273,641,353	1.05
Total expenditures of National Government	358,618,585	421,304,471	415,953,806	459,374,947	1,655,251,809	6.40
Total expenditures for Post-Office	69,001,586	72,017,439	76,670,345	83,459,017	301,148,387	1.16
National surplus	105,344,496	37,239,763	9,914,454	2,341,674	154,840,387	.60

[a] Fiscal year ending June 30.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1894.[a]	1895.[a]	1896.[a]	1897.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$54,567,930	$51,804,759	$50,830,921	$48,950,268	$206,153,878	$0.73
Navy Department	31,701,294	28,797,796	27,147,732	34,561,546	122,208,368	.44
Pensions	141,177,285	141,395,229	139,434,001	141,053,165	563,059,680	2.01
Indian service	10,293,481	9,939,754	12,165,528	13,016,802	45,415,565	.16
Interest on debt	27,841,406	30,978,030	35,385,029	37,791,111	131,995,576	.47
Post-Office	9,879,117	12,685,477	10,860,430	12,718,360	46,143,384	.16
Miscellaneous	92,064,767	80,594,253	76,355,805	77,682,908	326,697,733	1.16
Total paid from general revenues	367,525,280	356,195,298	352,179,446	365,774,160	1,441,674,184	5.14
B. Paid from postal revenues	75,080,479	76,983,128	82,499,208	82,665,463	317,228,278	1.13
Total expenditures of National Government	442,605,759	433,178,426	434,678,654	448,439,623	1,758,902,462	6.27
Total expenditures for Post-Office	84,959,596	89,668,606	93,359,639	95,383,822	363,371,663	1.30
National surplus	[b]69,803,261	[b]42,805,223	[b]25,203,246	[b]18,052,454	[b]155,864,184	[b].56

[a] Fiscal year ending June 30.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1898.[a]	1899.[a]	1900.[a]	1901.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$91,992,000	$229,841,255	$134,774,768	$144,615,697	$601,223,720	$1.99
Navy Department	58,823,985	63,942,104	55,953,078	60,506,979	239,226,146	.79
Pensions	147,452,369	139,394,929	140,877,316	139,323,622	567,048,236	1.87
Indian service	10,994,668	12,805,711	10,[illegible]75,107	10,896,073	44,871,559	.15
Interest on debt	37,585,056	39,896,925	40,160,333	32,342,979	149,985,293	.50
Post-Office	11,361,838	8,799,115	7,829,755	5,561,296	33,552,004	.11
Miscellaneous	85,158,667	110,392,141	97,943,435	116,720,707	410,214,950	1.36
Total paid from general revenues	443,368,583	605,072,180	487,713,792	509,967,353	2,046,121,908	6.76
B. Paid from postal revenues	89,012,619	95,021,384	102,354,579	111,631,193	398,019,775	1.32
Total expenditures of National Government	532,381,202	700,093,564	590,068,371	621,598,546	2,444,141,683	8.08
Total expenditures for Post-Office	100,374,456	103,820,500	110,184,334	117,192,490	431,571,780	1.43
National surplus	[b] 38,047,247	[b] 89,111,560	79,527,060	77,717,984	30,086,237	.10

[a] Fiscal year ending June 30.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1902.[a]	1903.[a]	1904.[a]	1905.[a]	Total.	Per capita.
Expenditures of National Government:						
A. Paid from general revenues—						
War Department	$112,272,216	$118,619,520	$115,035,411	$122,175,074	$468,102,221	$1.44
Navy Department	67,803,128	82,618,034	102,956,101	117,550,308	370,927,571	1.14
Pensions	138,488,560	138,425,646	142,559,266	141,773,964	561,247,436	1.74
Indian service	10,049,585	12,935,168	10,438,350	14,236,074	47,659,177	.15
Interest on debt	29,108,045	28,556,349	24,646,490	24,590,944	106,901,828	.33
Post-Office	2,294,835	3,470,568	7,242,237	15,805,899	28,813,539	.09
Miscellaneous	111,174,489	121,473,722	179,524,466	131,146,650	543,319,327	1.68
Total paid from general revenues	471,190,858	506,099,007	582,402,321	567,278,913	2,126,971,099	6.56
B. Paid from postal revenues	121,848,047	134,224,443	143,582,625	152,826,585	552,481,700	1.70
Total expenditures of National Government	593,038,905	640,323,450	725,984,946	720,105,498	2,679,452,799	8.26
Total expenditures for Post-Office	124,142,882	137,695,010	150,824,861	168,632,484	581,295,237	1.79
National surplus	91,287,375	54,297,667	[b]41,770,572	[b]23,004,228	80,810,242	.25

[a] Fiscal year ending June 30.

[b] Deficit.

Comparative statement of specified expenditures of the National Government, etc.—Continued.

	1906.[a]	Per capita.	1907.[a]	Per capita.
Expenditures of National Government:				
A. Paid from general revenues—				
War Department	$117,946,692	$1.40	$122,576,465	$1.43
Navy Department	110,474,264	1.31	97,128,469	1.14
Pensions	141,034,562	1.67	139,309,514	1.63
Indian service	12,746,859	.15	15,163,608	.18
Interest on debt	24,308,576	.29	24,481,158	.29
Post-Office	12,673,294	.15	7,629,383	.09
Miscellaneous	149,600,551	1.77	172,615,149	2.02
Total paid from general revenues	568,784,799	6.73	578,903,746	6.77
B. Paid from postal revenues	167,932,783	1.99	183,585,006	2.15
Total expenditures of National Government	736,717,582	8.72	762,488,752	8.91
Total expenditures for Post-Office	180,606,077	2.14	191,214,389	2.24
National surplus	25,669,323	.30	84,236,586	.98

[a] Fiscal year ending June 30.

ANALYSIS OF PUBLIC EXPENDITURES

ANALYSIS OF PUBLIC EXPENDITURES.

The following table summarizes the expenditures shown in detail in the table on pages 7 to 36. Expenditures are there presented by years in four-year or administration periods, from 1791 to 1907, and in the table which follows by specified groups of years. Per capita annual expenditures, both in amount and ratio, are also presented. The figure given in the column "ratio" is the quotient secured by dividing the per capita expenditures of the period under consideration by the corresponding per capita for the years from 1791 to 1796.

TABLE 1.—*A.—Total and per capita expenditures of the National Government for all purposes for specified periods, 1791–1907.*

Period.	Average annual expenditures.	Per capita annual expenditures.	
		Amount.	Ratio.
1791–1796	$5,854,172	$1.34	1.00
1821–1828	17,681,344	1.59	1.19
1846–1853	49,137,138	2.23	1.66
1878–1885	294,855,816	5.66	4.22
1898–1905	653,932,414	8.17	6.10
1906	736,717,502	8.72	6.51
1907	762,488,752	8.91	6.65

B.—Paid from general revenues for specified periods, 1791–1907.

Period.	Average annual expenditures.	Per capita average expenditures.	
		Amount.	Ratio.
1791–1796	$5,852,509	$1.32	1.00
1821–1828	16,407,424	1.47	1.11
1846–1853	44,266,671	2.02	1.53
1878–1885	257,019,281	4.93	3.73
1898–1905	521,636,626	6.65	5.00
1906	568,784,799	6.73	5.10
1907	578,903,746	6.77	5.13

C.—For the United States Post-Office for specified periods, 1791–1907.

Period.	Average annual expenditures.	Per capita annual expenditures.			
		Paid from postal revenues.	Paid from general revenues.	Total.	
				Amount.	Ratio.
1791–1796	$83,784	$0.02	.....	$0.02	1.00
1821–1828	1,273,916	.12	.....	.12	6.00
1846–1853	5,390,961	.21	$0.02	.23	11.50
1878–1885	41,638,131	.73	.07	.80	40.00
1898–1905	126,608,377	1.54	.10	1.62	81.00
1906	180,606,077	1.99	.15	2.14	107.00
1907	191,214,389	2.15	.09	2.24	112.00

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The expenditures, in not only the Federal Government but all State and local governments, are met in part from public taxes and in part from other revenues. In the Federal Government the latter class comprises principally revenues received as compensation for services rendered by the Post-Office.

The postal expenditures in 1907 were 112 times greater than those of the six years of Washington's Administration for which the table presents data. Comparison of the expenditures for postal service in 1907 with similar expenditures in 1791 (but $36,697) shows that such expenditure increased 248 times as rapidly as population, while all governmental expenditures increased about 6.3 times.

The increase of national expenditures actually met from taxation is reflected fairly well by the figures given above, although the reported expenditures include payments for other purposes than the cost of government and payments that are not met from the proceeds of national taxation. Among the payments of the first class so included are those for the expenditures of the District of Columbia disbursed through the National Treasury, the payments of trust moneys, and duplications of many kinds. Among the payments of the second class are those for governmental expenditures which are met from fees for services, such as those of the Patent Office and of the General Land Office. The payments for both of these classes, like the expenditures of the Post-Office, have increased much faster than the expenditures met from public taxation. The data for an exact exhibit of these payments are, however, not readily available. If they were, it would be found that the actual increase of expenditures payable from national taxes was slightly less than indicated by the table.

EXPENDITURES WITH RELATION TO POPULATION.

National expenditures payable from taxes have increased in 111 years something over 5 times as fast as population. The relative increase was much slower in the first 60 years of national life than in the last 50. The greatest increase was in the period which includes the civil war and largely represents the increase in the governmental payments for interest and pensions. Just prior to the civil war these payments were only 13 cents per capita per annum. This was the lowest in the national history, and was less than one-fifth the corresponding per capita payment of 1796 to 1800. The per capita annual payments for interest and pensions in the four years ending June 30, 1869, were $4.32, and by 1907 had declined to $1.92. This decline was balanced by a relative increase of other costs of government, so that in 1907 the per capita for all expenditures payable from taxes was not far from 5 times what it was in Washington's time. The same statement can also be made of all such expenditures, exclusive of those for interest and pensions.

The average annual per capita expenditures of the National Government payable from taxes for the eight years 1846 to 1853 was $2.02; for the eight years ending June 30, 1905, it was $6.65; and for the year ending June 30, 1907, $6.77. The average for the eight years 1898 to 1905 was 3.29 times, and that for 1907 was 3.35 times, the cor-

responding average for the period 1846 to 1853. To the extent represented by these numbers did the expenditures payable from taxes increase faster than population.

EXPENDITURES WITH RELATION TO NATIONAL WEALTH.

The per capita of national taxable wealth was $308 in 1850 and $1,234 in 1904. In the latter year it was 4 times what it was in 1850, indicating that the relative ability of the nation to pay taxes had increased in 54 years 4 times, while the national expenditures payable from taxes had increased in the 57 years ending in 1907 only 3.35 times. The national wealth, or the ability to meet governmental expenditures, increased at least 20 and possibly 25 per cent more than did the national expenditures to be met from taxation. Considering the number of people in the country to be taxed, the present national Administration makes the government 3.35 times as costly to the taxpayer as did the government of 1846 to 1853. But, taking account of the wealth of the citizens, or their ability to support the Government, the administration of the United States in 1907 was only 75 or 80 per cent as burdensome as that which controlled the country at the middle of the last century.

INCREASE IN THE EXPENDITURES OF THE NATIONAL GOVERNMENT AS COMPARED WITH THOSE OF STATE, MUNICIPAL, AND LOCAL GOVERNMENTS.

The following table presents the actual expenditures of the Federal Government by decades, from 1850 to 1907, a period of fifty-seven years, and the amount which such expenditure represents per thousand dollars of national wealth as compiled at the various census periods mentioned. The proportion per $1,000 of national wealth of the taxes levied to meet the expenditure, including schools, for government other than Federal, from 1860 to 1902, and the grand total of expenditure for government, exclusive of Federal, compiled only at the Eleventh and Twelfth Censuses, are also presented.

Total national wealth and expenditures of the Federal Government and of State, county, municipal, and all local governments, per $1,000 of wealth, 1860 to 1907.

Year.	Total national wealth.	Total expenditures of National Government (taxable).		Tax levy for expenditures for States, counties, cities, minor civil divisions, including schools.		Payment for expenditures for States, counties, cities, minor civil divisions, including schools.	
		Amount.	Per $1,000 of national wealth.	Amount.	Per $1,000 of national wealth.	Amount.	Per $1,000 of national wealth.
1850	$7,135,780,228	$46,448,368	$6.5				
1860	16,159,616,068	71,718,943	4.4	$94,186,746	$5.8		
1870	24,054,814,806	313,429,226	13.2	226,185,629	9.4		
1880	41,067,122,000	298,163,117	7.3	313,921,474	7.6		
1890	61,203,755,972	358,618,585	5.9	471,365,140	7.7	$569,252,634	$9.3
1900	82,304,517,845	590,068,371	7.2				
1902	a 91,238,732,842	593,038,905	6.5	724,736,539	7.9	1,156,447,085	12.8
1904	100,272,947,840	725,984,946	7.2				
1907	a 113,749,270,337	762,488,752	6.7				

a Estimated on basis of increase 1900-1904.

The expenditures of the National Government payable from taxation may be compared with the general property taxes levied for the support of State and municipal governments. The tax levies for State and municipal governments were ascertained by the Bureau of the Census for 1880, 1890, and 1902. For 1880 the per capita of such levies was $6.26, and in 1902, $9.22. In 22 years it increased 47.3 per cent. The per capita of national expenditures payable from taxation in 1880 was $5.28, and in 1902, $5.91, and in 1907, $6.77. The percentage of increase from 1880 to 1902 was 12, and from 1880 to 1907 only 28.2. The former was only a fourth and the latter barely 60 per cent of the corresponding percentage of increase of State and local taxation for 22 years. State and local taxation is increasing proportionately with national wealth and the ability of the people to meet the added costs of local government, while national expenditures—though growing rapidly—do not keep pace with the increasing national wealth; and so the burden of national government becomes smaller and smaller with the passing of the decades—at least, that has been the general trend of affairs since the middle of the nineteenth century, in spite of the cost of the civil war with its legacy of heavy interest and pension charges.

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